

HOUSE JOURNAL

SIXTY-NINTH LEGISLATURE, REGULAR SESSION

PROCEEDINGS

SEVENTY-SECOND DAY — WEDNESDAY, MAY 15, 1985

The house met at 10 a.m. and was called to order by the speaker.

The roll of the house was called and a quorum was announced present (Record 371).

Present — Mr. Speaker; Adkisson; Agnich; Armbrister; Arnold; Barton; Berlanga; Blackwood; Blanton; Buchanan; Burnett; Bush; Cain; Campbell; Carriker; Carter; Cavazos; Ceverha; Clark; Clemons; Colbert; Collazo; Connelly; Cooper; Craddick; Criss; Danburg; Delco; Denton; Dutton; Earley; Eckels; Edge; Edwards; Emmett; Evans, C.; Evans, L.; Finnell; Fox; Garcia, A.; Gavin; Geistweidt; Gibson; Gilley; Givens; Glossbrenner; Godwin; Granoff; Guerrero; Hackney; Haley; Hall; Hammond; Harris, C.; Harris, J.; Harrison; Heflin; Hightower; Hilbert; Hill, A.; Hinojosa; Hollowell; Horn; Hudson, D.; Hudson, S.; Hury; Jackson; Johnson, C.; Johnson, S.; Jones; Keller; Kubiak; Kuempel; Laney; Lee; Leonard; Lewis, R.; Luna, A.; Luna, G.; McDonald; McKenna; McKinney; Madla; Martinez; Melton; Messer; Millsap; Morales; Moreno, A.; Oliveira; Oliver; Parker; Patrick; Patronella; Patterson; Pennington; Perez; Perry; Pierce; Price; Ragsdale; Rangel; Richardson; Riley; Roberts; Robinson; Robnett; Rudd; Russell; Saunders; Schlueter; Schoolcraft; Shaw; Shea; Short; Smith, A.; Smith, C.; Smith, R.; Smith, T.; Smithee; Staniswalis; Stiles; Sutton; Tallas; Taylor; Tejada; Thompson, G. E.; Thompson, G. W.; Thompson, S.; Toomey; Uher; Valigura; Vowell; Waldrop; Watson; Whaley; Williamson; Willis; Willy; Wilson; Wolens; Wright; Yost.

Absent, Excused — Green; Wallace.

Absent — Garcia, O.; Hill, P.; McWilliams; Moreno, P.; Polumbo.

The invocation was offered by Reverend A. R. Daga, pastor, St. Edward Catholic Church, Spring, Texas, as follows:

Let us pray,

O God, the source of all wisdom, whose statutes are good and gracious, and whose law is truth, guide and direct our legislators, that by just and prudent laws, they may promote the well-being of all people.

Father, you have charged us with the task of building on this earth a home where all nations dwell in unity, liberty and justice. We pray for strength and purpose to make members of this legislature accountable to all people, fulfill their roles of service and responsibility wisely, and that they may seek justice and protect the weak and lead their constituents in ways of peace and goodness. Amen.

LEAVES OF ABSENCE GRANTED

The following members were granted leaves of absence for today because of important business:

Green on motion of Adkisson.

Wallace, temporarily for today, on motion of R. Lewis.

(P. Hill and P. Moreno now present)

REGULAR ORDER OF BUSINESS SUSPENDED

By unanimous consent, the reading and referral of bills was postponed until just prior to adjournment.

STATEMENT BY MEMBERS

Please show the following members voting no on **SB 128**: Shea and Toomey.

Please show the following members voting no on **HB 1741**: Shea, Toomey, and Willy.

Please show the following members voting no on **HB 1374** and **SB 140**: Shea, Toomey, Willy, and S. Johnson.

HB 1941 WITH SENATE AMENDMENTS

Representative Geistweidt called up with senate amendments for consideration at this time,

HB 1941, A bill to be entitled An Act relating to performance bonds required to be maintained by a person applying for or acting under a permit to store, handle, treat, reclaim, or dispose of oil and gas waste, solid waste, or hazardous waste.

On motion of Representative Geistweidt, the house concurred in the senate amendments to **HB 1941**.

HB 1941 - TEXT OF SENATE AMENDMENTS**COMMITTEE AMENDMENT NO. 1**

Amend **HB 1941**, Sec. 91.109, Natural Resources Code to read as follows:

"Sec. 91.109. DISPOSAL SITE BOND. A person applying for or acting under a commission permit to store, handle, treat, reclaim, or dispose of oil and gas waste may be required by the commission to maintain a performance bond or other form of financial security conditioned that the permittee will operate and close the storage, handling, treatment, reclamation, or disposal site in accordance with state law, commission rules, and the permit to operate the site. However, this section does not authorize the commission to require a bond or other form of financial security for saltwater disposal pits, emergency saltwater storage pits (including blow-down pits), collecting pits, or skimming pits provided that such pits are used in conjunction with the operation of an individual oil or gas lease. Proceeds from any bond or other form of financial security required by this section shall be placed in the well plugging fund provided by Section 89.152 of this code. Each bond or other form of financial security shall be renewed and continued in effect until the conditions have been met or release is authorized by the commission."

Amend caption to conform to body of bill.

HB 593 WITH SENATE AMENDMENTS

Representative Millsap called up with senate amendments for consideration at this time,

HB 593, A bill to be entitled An Act relating to the regulation of nursing home administrators.

On motion of Representative Millsap, the house concurred in the senate amendments to **HB 593**.

HB 593 - TEXT OF SENATE AMENDMENTS**FLOOR AMENDMENT NO. 1**

Amend **HB 593**, SECTION 3, Sec. 7A(b)(2), on page 4, line 17, by substituting the following:

(2) on a sign prominently displayed in every nursing home regulated by the state in which the words "Administrator Complaints" are in letters no smaller than one inch in height and the name, mailing address, and telephone number of the board are in letters no smaller than one-half inch in height; and

Amend the caption to conform to the body of the bill.

MESSAGE FROM THE SENATE

Austin, Texas, May 15, 1985

The Honorable Speaker of the House of Representatives
House Chamber

The Honorable
Mr. Speaker:

I am directed by the Senate to inform the House that the Senate has passed the following:

Local and Uncontested Calendar

HCR 72 by McWilliams, granting Albert P. Gorelick and Florence M. Gorelick permission to sue the state.

HCR 79 by Clemons, honoring the Commissioners' Court of Sabine County and recognizing the adoption of a county sesquicentennial logo.

HCR 115 by A. Smith, granting Mission Insurance Group, Inc., permission to sue the state.

HCR 125 by A. Smith, creating the Autism Task Force.

HB 36 by Toomey, relating to the inclusion of social security numbers in a decree in a suit affecting the parent-child relationship.

HB 76 by Keller, relating to the application of certain provisions of the State Purchasing and General Services Act to construction projects requested by the Texas Department of Corrections.

HB 104 by Polumbo, relating to the operation of emergency fire-fighting vehicles through a mutual aid organization.

HB 118 by Criss and Collazo, relating to the unemployment compensation tax rate paid by certain employees. (amended)

HB 128 by Hury, relating to the authority of a county to contract with a volunteer fire department.

HB 160 by Cavazos and Martinez, relating to the requirement of providing notice by sign of the intended use of property for the on-premises consumption of alcoholic beverages.

HB 192 by Hury, relating to the authority of certain cities and their park boards over parks, certain facilities, and other public improvements.

CSHB 220 by Smith and Robnett, relating to the creation of an offense of the fraudulent use of a debit card.

HB 243 by Laney, relating to the powers and duties of the Castro County Hospital District board of directors.

HB 252 by Green, relating to the administration of the 9-1-1 emergency telephone number system in certain counties and adjacent territory.

HB 276 by Jackson, relating to absentee voting and to the location of polling places in certain elections.

HB 282 by Millsap, relating to plastic fabricator liens.

HB 335 by D. Hudson, relating to child support collection services in Smith County.

HB 339 by Hury, relating to the jurisdiction of County Courts Nos. 1 and 2 of Galveston County and to the salaries of the judges of those courts.

HB 380 by Hollowell, relating to the jurisdiction of the county court and district court in Upshur County.

HB 488 by Messer, relating to the regulation of advertising by dentists and to certain exceptions from the definition of dentistry. (amended)

HB 504 by A. Luna, relating to the maximum number of hours a firefighter can be required to work in certain cities.

HB 528 by Watson, relating to reimbursement for vaccinations given to certain governmental employees. (amended)

HB 557 by Danburg, relating to the care and maintenance of neglected and unkept cemeteries by nonprofit corporations.

HB 650 by Willy, relating to the creation, administration, powers, duties, operations, functions, and financing of the Brazosport Water Authority. (amended)

CSHB 653 by Finnell, relating to the establishment of a task force to study licensing standards for personal care homes.

CSHB 667 by Hightower, relating to the place at which an execution may take place.

HB 718 by Hury, relating to the notice of a change of nursing home administrators.

HB 738 by Granoff, relating to an increase in the fees paid to counties by the Texas Youth Commission for supervision of delinquent children.

HB 759 by Ceverha, relating to an administrative fee charged by the Texas Board of Private Investigators and Private Security Agencies to process certain sets of fingerprints.

HB 784 by Uher, relating to the levy, collection, and use of a junior college branch campus maintenance and capital expenditure tax.

HB 823 by Arnold, relating to certain requirements for licensure as a licensed vocational nurse.

HB 826 by Craddick, relating to the eligibility of certain defendants for participation in a restitution center program as an alternative to confinement in the Texas Department of Corrections.

HB 833 by Roberts, relating to the offense of assault with a deadly weapon on a peace officer, jailer, guard, or participant in a court proceeding.

HB 892 by Dutton and Danburg, relating to uncompensated duty for certain fire fighters and police officers. (amended)

CSHB 900 by Madla, relating to the establishment, administration, and financing of peer assistance programs to assist professionals impaired by chemical dependency or mental illness.

HB 1029 by Delco, relating to administration and investment of assets of, contributions to, and benefits from, fire fighter's relief and retirement funds in certain cities.

HB 1046 by A. Luna, relating to assignment pay for fire fighters and police officers serving as bilingual personnel in certain cities.

HB 1070 by Madla, relating to penalties for violation of municipal ordinances, rules, and regulations governing vegetation and litter.

HB 1098 by R. Lewis, relating to the composition of the Orange County Juvenile Board.

HB 1106 by Millsap, relating to the commitment of drug-dependent persons.

CSHB 1119 by Danburg, relating to procedures in and effects of suit for forcible entry and detainer and forcible detainer.

HB 1140 by Hackney, relating to the procedure by which the Department of Public Safety adopts certain rules.

HB 1182 by Colbert, relating to the powers and duties of the Board of Regents of the University of Houston System; amending Sections 111.33 and 111.34 of the Texas Education Code; and declaring an emergency.

HB 1202 by Pennington, relating to the recall of a member of the board of directors of an appraisal district.

CSHB 1216 by C. Evans, relating to the validity of signatures on voters' petitions in certain elections.

HB 1226 by C. Evans, relating to deferred compensation plans for public employees. (amended)

HB 1242 by Denton, relating to application of the Education Code to facilities of the Texas Department of Mental Health and Mental Retardation or the Texas Youth Commission.

HB 1259 by Cain, relating to the reporting of vehicle accidents that result in injury to or the death of a person or in damage to a vehicle. (amended)

CSHB 1389 by Wolens, relating to prohibiting the imposition of penalties for the late filing of inconsequential amendments to sworn statements of political contributions and expenditures.

HB 1470 by Lee, relating to a licensee's duty to respond to inquiries of the State Board of Insurance.

HB 1508 by Gavin, relating to sources of payment for violations of trade practices in the business of insurance.

HB 1531 by Denton and Taylor, relating to transportation allotment.

HB 1533 by Jackson and Wallace, relating to the transfer of the Texas Film Commission to the Texas Economic Development Commission.

HB 1581 by C. Evans, relating to the establishment of a dental care advisory committee by the Texas Health and Human Services Coordinating Council and to the abolition of the Texas Board of Health Dental Advisory Committee.

HB 1618 by Arnold, relating to the registration of certain corporate names. (amended)

CSHB 1728 by Toomey, relating to revenue anticipation agreements entered into by certain hospital districts.

HB 1736 by Uher, relating to the continuation of a worker's lien against certain property relinquished by the worker.

HB 1787 by Leonard, relating to benefit wage credits under the unemployment compensation laws.

CSHB 2044 by Schlueter, relating to the listing of certain exempt property in the appraisal records.

HB 2066 by Cain, relating to overcharging for storage of a motor vehicle, motorboat, vessel, or outboard motor placed in storage under a state law or city ordinance.

HB 2086 by C. Harris and C. Evans, relating to support dogs for the handicapped; providing a penalty.

HB 2087 by C. Evans and C. Harris, relating to the filing, numbering, docketing, and assignment of cases in and the distribution of work of the county criminal courts of Tarrant County.

HB 2092 by C. Evans, relating to the certification of city secretaries.

HB 2126 by Morales, relating to the authority of the Commissioners Court of Bexar County to accept gifts and grants for certain purposes.

HB 2182 by Keller, relating to the regulation of real estate inspectors; providing a penalty.

HB 2236 by Millsap, relating to the establishment, powers, duties, administration, and financing and dissolution of subregional transportation authorities in certain cities. (amended)

HB 2247 by Tallas, relating to the annexation by a city of territory within a water or sewer district.

HB 2248 by Tallas, relating to the refunding of bonds by levee improvement districts.

HB 2300 by Shea, relating to the fiscal year of an appraisal district.

CSHB 2301 by Shea and Pennington, relating to the date by which rendition statements and property reports must be delivered to the chief appraiser and imposing deadlines for performance of certain duties of the chief appraiser and appraisal review board.

HB 2331 by S. Thompson, relating to the office hours of voter registrars on uniform election dates.

CSHB 2344 by Hackney, relating to furnishing forms for an affidavit of residence to persons voting absentee by mail and to disposition of absentee balloting materials after processing by a special canvassing board.

HB 2346 by Hackney, relating to the inspection and sealing of voting machines prior to an election.

HB 2362 by Schlueter, relating to the discharge of certain waste or pollutants into or adjacent to Salado Creek or bodies of water flowing into Salado Creek.

HB 2379 by Parker, relating to the election and terms of office of the directors of the Valley Creek Water Control District.

HB 2411 by Pierce, relating to the calibration of cargo tanks used for transporting gasoline or diesel fuel.

HB 2413 by Saunders, relating to the jurisdiction of the County Court of Fayette County.

HB 2421 by Blanton and Shea, relating to the powers, duties, and financing of the Dallas County Utility and Reclamation District and validating prior elections and other actions and contracts.

SCR 74 by Edwards, urging Texas universities to make a concerted effort to attract eminent scholars in the arts and humanities.

SCR 92 by Edwards, directing state institutions of higher education to adopt a written intellectual property policy.

SCR 118 by Edwards, expressing the importance of research and development and technological development to the state's economic future.

SCR 123 by Brooks, requesting the State Board of Insurance to investigate the feasibility of providing benefits or third-party reimbursement for a full range of long-term care services, including home care and community based

SCR 127 by Brooks, requesting the cooperation of the Texas Department of Human Resources and TDMHMR in collaboratively planning for increasing and redirecting Medicaid funds to encourage community-based residential services.

SCR 128 by Brooks, requesting the cooperation of the TDMHMR and Department of Corrections in development of creative community-based alternatives for mentally disabled offenders.

SCR 129 by Brooks, requesting the cooperation of the TDMHMR, Central Education Agency, and the Texas Rehabilitation Commission in improving coordination of their services to persons with mental retardation.

SCR 130 by Barrientos, granting John P. Nicman, et al., permission to sue the state.

SCR 139 by Brooks, directing the Texas Health and Human Services Coordinating Council to conduct a study of school-age latch-key children in Texas.

SCR 140 by Brown, granting Stella Lerma and John Lerma permission to sue the State of Texas and the Texas School for the Deaf.

SB 208 by Brown, relating to the use of certain lights on school buses.

SB 335 by Whitmire, relating to appointment of masters for certain district courts in Harris County.

SB 435 by Uribe, relating to the procedure for creating enterprise zones.

SB 513 by Sarpalius, relating to the authority of a county to construct, improve, maintain, or repair city streets and alleys with the consent of the city.

SB 540 by Whitmire and Washington, relating to the civil service status of certain city employees employed in specialized police divisions.

SB 673 by Parker, relating to filling of vacancies on the board of trustees of a school district.

SB 729 by Sims, relating to the disqualification for benefits under the Texas Unemployment Compensation Act for certain employees who have two periods of employment with the same employer.

SB 855 by Edwards, relating to certain traffic offenses committed by persons at least 14 years of age and not more than 16 years of age.

SB 861 by Sarpalius, relating to the provision of Medicaid assistance to persons receiving care from a hospice or other similar organization.

SB 887 by Montford, relating to the employment and duties of a county librarian.

SB 1000 by McFarland, validating the creation, boundaries, and actions of Denton County Levee Improvement District No. 1 (the "District").

SB 1001 by McFarland, relating to the administration, powers, and duties of and validation of the creation of the Denton County Fresh Water Supply District No. 1 of Denton County, Texas, and to the authority to divide into two or more districts.

SB 1051 by Edwards, relating to the requirement that an institution of higher education adopt rules regarding faculty workloads.

SB 1112 by Lyon, clarifying the cumulative effect of certain statutory remedies and the preservation of common law remedies relative to protection of the environment.

SB 1152 by Traeger, relating to the method of payment of certain secondary mortgage loans.

SB 1186 by Santiesteban, relating to fire fighter and police officer retirement systems in certain cities.

SB 1304 by Truan, relating to the creation, administration, powers, duties, operations, financing, and organization of the Riviera Water Control and Improvement District.

SB 1320 by Howard, amending Subdivision (10), Section 2, Development Corporation Act of 1979, as amended (Article 5190.6, Vernon's Texas Civil Statutes), relating to the definition of the term "project."

SB 1344 by Caperton, relating to medical malpractice coverage for certain institutions.

SB 1353 by Traeger, relating to a surcharge for use of a credit card.

SB 1355 by Blake, relating to the authority of the State Purchasing and General Services Commission to accept gifts for certain capital improvements.

SB 1377 by Whitmire, amending the Act creating the Coastal Industrial Water Authority (the "Authority"); changing the name of the Authority to the "Coastal Water Authority"; conferring on the Authority the rights, powers, privileges

SB 1379 by Brooks, relating to eligibility for crippled children's program services and to providers of services for the crippled children's services program.

SB 1427 by Uribe, relating to authority to establish a foreign trade zone in Weslaco.

SB 1442 by Caperton, relating to the consequences of a member of the faculty at an institution of higher education being absent from work on a religious holy day.

SB 1443 by Caperton, relating to prohibiting denial of certain salary bonuses or similar compensation or career ladder advancement because of a teacher's absence from school for observance of a religious holy day.

Respectfully,
Betty King
Secretary of the Senate

HB 742 WITH SENATE AMENDMENT

Representative Millsap called up with senate amendment for consideration at this time,

HB 742, A bill to be entitled An Act relating to the regulation of dentistry.

On motion of Representative Millsap, the house concurred in the senate amendment to **HB 742**.

HB 742 - TEXT OF SENATE AMENDMENT

CSHB 742, A bill to be entitled An Act relating to the regulation of dentistry.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 3, Article 4549, Revised Statutes, is amended to read as follows:

Sec. 3. The Texas State Board of Dental Examiners and the District Courts of this State shall have concurrent jurisdiction and authority, after notice and hearing as hereinafter provided, to suspend or revoke a dental license or a dental hygienist license, to place on probation a person whose license or certificate is suspended, or to reprimand a licensee or certificate holder, and in addition to or in lieu of said suspension, revocation, probation, or reprimand, to assess a fine in an amount not to exceed \$2,500 payable to the dental registration fund for any one or more of the following causes:

(a) Proof of insanity of the holder of a license or certificate, as adjudged by the regularly constituted authorities.

(b) Proof of conviction of the holder of a license or certificate of any felony or a misdemeanor involving fraud under the laws of this State or any other State or of the United States.

(c) That the holder thereof has been or is guilty of dishonorable conduct, malpractice or gross incompetency in the practice of dentistry or dental hygiene.

(d) That the holder thereof has been or is guilty of any deception or misrepresentation for the purpose of soliciting or obtaining patronage.

(e) That the holder thereof procured a license or certificate through fraud or misrepresentation.

(f) That the holder thereof is addicted to habitual intoxication or the use of drugs.

(g) That a dentist employs or permits or has employed or permitted persons to practice dentistry in the office or offices under his control or management, who were not licensed to practice dentistry.

(h) That the holder thereof has failed to use proper diligence in the conduct of his practice or to safeguard his patients against avoidable infections.

(i) That the holder thereof has failed or refused to comply with any State law relating to the regulation of dentists or dental hygienists.

(j) That the holder thereof has failed or refused to comply with the adopted and promulgated rules and regulations of the Board.

(k) That the holder thereof is physically or mentally incapable of practicing with safety to dental patients.

(l) That the holder thereof has been negligent in the performance of dental services which injured or damaged dental patients.

(m) Proof of suspension, revocation, probation, reprimand, or other restriction by another State of a license or certificate to practice dentistry or dental hygiene based upon acts by the licensee or certificate holder enumerated in this section.

(n) That the holder thereof has knowingly provided or agreed to provide dental care in a manner which violates any provision of federal or State law regulating a plan whereby any person undertakes to provide, arrange for, pay for, or reimburse any part of the cost of any dental care services or regulating the business of insurance.

SECTION 2. Section 1, Article 4550a, Revised Statutes, is amended to read as follows:

Section 1. It shall be the duty of all persons holding a dental license or dental hygienist license issued by the State Board of Dental Examiners, to annually apply and to be registered as such practitioners with the State Board of Dental Examiners on or before March 1st of each calendar year. Each person so registering shall pay in connection with such annual registration for the receipt hereinafter provided for, a fee as determined by said Board according to the needs of said Board, such payment to be made by each person to such Board, and every person so registering shall file with said Board a written application setting forth such facts as the Board may require. A person holding a dental hygienist license must attach to the application proof that the person has successfully completed a course in cardiopulmonary resuscitation given or approved by the American Heart Association or American Red Cross not earlier than one year before the date on which the license must be renewed or, in the event that the person is not physically capable of successfully completing such training, a written statement executed by either a licensed physician or an instructor in cardiopulmonary resuscitation approved by the American Heart Association or American Red Cross that describes such physical incapacity. In lieu of this requirement for annual cardiopulmonary resuscitation certification, a dental hygienist licensed by the Texas State Board of Dental Examiners and residing in a country other than the United States may satisfy this requirement by submitting proof of residence upon the annual date of renewal. Upon receipt of such applications, accompanied by such fees, said Board, after ascertaining either from its records or other sources deemed by it to be reliable, that the applicant holds a valid license or certificate to practice in this State, shall issue to the applicant an annual registration certificate or receipt certifying that he has filed such application and has paid the required fee; provided, that the filing of such application, the payment of such fee, and the issuance of such receipt therefor, shall not entitle the holder thereof to lawfully practice within the State of Texas unless he in fact holds a license or certificate as such practitioner issued by the State Board of Dental Examiners, as provided by this law, and unless said license or certificate is in full force and effect; and provided further, that in any prosecution for unlawful practice such receipt showing payment of the annual registration fee required by this chapter shall not be treated as evidence that the holder thereof is lawfully entitled to practice.

SECTION 3. Subsection (a), Section 4, Article 4550a, Revised Statutes, is amended to read as follows:

Sec. 4(a) To aid the Board in performing its duties, the Board is hereby authorized to employ an Executive Secretary or Director who shall receive a salary to be fixed by the Board, and who shall make and file a surety bond in a sum not less than Five Thousand Dollars (\$5,000) conditioned for the faithful performance of all the duties of his office and the safekeeping and proper disbursement of said "Dental Registration Fund" and all other funds coming into his hands; such salary shall be paid out of said "Dental Registration Fund" and shall not be in any way a charge upon the general revenue of the State. The Executive Director, with the

consent of the Board, may employ an Assistant Executive Director who shall perform all the duties required by law to be performed by the Executive Director when said Executive Director is absent or unable to act for any reason. Said Board shall employ and provide such other employees as may be needed to assist the Executive Secretary or Director in performing his duties and in carrying out the purposes of this Act, provided that their compensation shall be paid only out of the said "Dental Registration Fund." All disbursements from "Dental Registration Fund" shall be made only upon the written approval of the President of the Board, Secretary of said Board, or an employee designated by the Board and upon warrants drawn by the Comptroller to be paid out of said fund.

SECTION 4. Subsection (b), Article 4551, Revised Statutes, is amended to read as follows:

(b) The Board shall establish reasonable and necessary fees for the administration of this Act in amounts not to exceed:

- (1) dental examination fee: \$150;
- (2) dental hygiene examination fee: \$75;
- (3) annual renewal fees:
 - dentist: \$75,
 - dental hygienists: \$50,
 - dental labs: ~~[\$200]~~ 100;
- (4) reciprocal registration fee: \$150;
- (5) duplicate license fee: \$15;
- (6) duplicate registration certificates: \$15.

The Board shall not maintain unnecessary fund balances, and fee amounts shall be set in accordance with this requirement.

SECTION 5. Article 4551a, Revised Statutes, is amended to read as follows:

Art. 4551a. PERSONS REGARDED AS PRACTICING DENTISTRY. Any person shall be regarded as practicing dentistry within the meaning of this Chapter:

(1) Who publicly professes to be a dentist or dental surgeon or who uses or permits to be used for himself or for any other person, the title of "Doctor," "Dr.," "Doctor of Dental Surgery," "D.D.S.," "Doctor of Dental Medicine," "D.M.D.," or any other letters, titles, terms or descriptive matter which directly or indirectly represents him as being able to diagnose, treat, remove stains or concretions from teeth, provide surgical and adjunctive treatment for any disease, pain, injury, deficiency, deformity or physical condition of the human teeth, oral cavity, alveolar process, gums, jaws or directly related and adjacent masticatory structures.

(2) Who shall offer or undertake by any means or methods whatsoever, to clean teeth or to remove stains, concretions or deposits from teeth in the human mouth, or who shall undertake or offer to diagnose, treat, operate, or prescribe by any means or methods for any disease, pain, injury, deficiency, deformity, or physical condition of the human teeth, oral cavity, alveolar process, gums, or jaws.

(3) Any person who shall offer or undertake in any manner to prescribe or make, or cause to be made, an impression of any portion of the human mouth, teeth, gums, or jaws, for the purpose of diagnosing, prescribing, treating, or aiding in the diagnosing, prescribing or treating, any physical condition of the human mouth, teeth, gums or jaws, or for the purpose of constructing or aiding in the construction of any dental appliance, denture, dental bridge, false teeth, dental plate or plates of false teeth, or any other substitute for human teeth.

(4) Any one who owns, maintains or operates any office or place of business where he employs or engages, under any kind of contract whatsoever, any other person or persons to practice dentistry as above defined shall be deemed to be practicing dentistry himself and shall himself be required to be duly licensed to practice dentistry as hereinabove defined, and shall be subject to all of the other provisions of this Chapter, even though the person or persons so employed or

engaged by him shall be duly licensed to practice dentistry as hereinabove defined, unless otherwise provided by law.

(5) Any person, firm, group, association, or corporation who shall offer or undertake to fit, adjust, repair, or substitute in the human mouth or directly related and adjacent masticatory structures any dental appliance, structure, prosthesis, or denture, or who shall aid or cause to be fitted, adjusted, repaired, or substituted in the human mouth or directly related and adjacent masticatory structures any dental appliance, structure, prosthesis, or denture.

(6) Who makes, fabricates, processes, constructs, produces, reproduces, duplicates, repairs, relines, or fixes any full or partial denture, any fixed or removable dental bridge or appliance, any dental plate or plates of false teeth, any artificial dental restoration, or any substitute or corrective device or appliance for the human teeth, gums, jaws, mouth, alveolar process, or any part thereof for another, or who in any manner offers, undertakes, aids, abets, or causes another person so to do for another, without a written prescription or work-order therefor signed by the dentist legally engaged in the practice of dentistry in this state or in the jurisdiction where such dentist maintains his dental office and who prescribed and ordered same.

(7) Who shall offer or undertake or cause another to do, directly or indirectly, for any person any act, service, or work in the practice of dentistry or any part thereof as provided for in the laws of Texas relating to the practice of dentistry including without limitation the inducing, administering, prescribing, or dispensing any anesthesia, anesthetic drug, medicine, or agent in anywise incidental to or in connection with the practice of dentistry; or who permits or allows another to use his license or certificate to practice dentistry in this state for the purpose of performing any act described in this Article; or who shall aid or abet, directly or indirectly, the practice of dentistry by any person not duly licensed to practice dentistry by the Texas State Board of Dental Examiners.

(8) Who shall control, attempt to control, influence, attempt to influence, or otherwise interfere with the exercise of a dentist's independent professional judgment regarding the diagnosis or treatment of any dental disease, disorder, or physical condition. However, nothing herein shall be construed to require any entity to pay for services which are not provided for in a contract or agreement or to exempt any dentist who is a member of a hospital staff from adhering to hospital bylaws, medical staff bylaws, or established policies approved by the governing board and the medical and dental staff of the hospital.

SECTION 6. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

HCR 138 WITH SENATE AMENDMENT

Representative Millsap called up with senate amendment for consideration at this time,

HCR 138, Authorizing appointment of joint study committees during the legislative interim.

On motion of Representative Millsap, the house concurred in the senate amendment to **HCR 138**.

HCR 138 - TEXT OF SENATE AMENDMENT

COMMITTEE AMENDMENT NO. 1

Amend **HCR 138** by inserting between the 10th and 11th resolving clauses the following:

"RESOLVED, That, on approval of the lieutenant governor and speaker of the house, all member and appointee expenses and other necessary operating expenses of each committee may be paid from funds appropriated to the Texas Legislative Council; and, be it further".

MESSAGE FROM THE GOVERNOR

The speaker laid before the house and had read the following message from the governor:

Austin, Texas, May 14, 1985

TO THE HOUSE OF REPRESENTATIVES OF THE SIXTY-NINTH LEGISLATURE, REGULAR SESSION:

Pursuant to Article III, Section 5, of the Texas Constitution, I, Mark White, Governor of the State of Texas, submit the following emergency matters for immediate consideration by the 69th Legislature, now convened:

1. Transfer of funds and supplemental appropriations to the Disaster Contingency Fund for disasters and emergencies, included in **HB 2510** by Hollowell and **SB 1452** by Jones.
2. Supplemental appropriations to the Office of the Attorney General for the purpose of paying 1985 employees' workers' compensation claims, included in **HB 952** by Willis and **SB 1461** by Farabee.
3. Supplemental appropriations to the Department of Mental Health and Mental Retardation for 1985 utilities, included in **HB 2507** by Madla and **SB 1460** by Farabee.
4. Supplemental appropriations to the National Guard Armory Board for 1985 utilities, included in **HB 2508** by Hollowell and **SB 1454** by Traeger.
5. Supplemental appropriations to the State Board of Public Accountancy for expanded law enforcement and accounting capability, included in **HB 2500** by Oliveira and **SB 1423** by Harris.

Respectfully submitted,
Mark White
Governor of Texas

HB 2358 ON SECOND READING

The speaker laid before the house, as postponed business, on its second reading and passage to engrossment, the complete committee substitute for **HB 2358**.

CSHB 2358

A BILL TO BE ENTITLED AN ACT

relating to amendments to the Solid Waste Disposal Act and Chapter 27, Water Code, which: expand and restate the state solid waste management policy; add conforming definitions; require interagency coordination of solid waste management; define unsuitable solid waste management facility siting characteristics and define the role of local governments in the state comprehensive solid waste management policy; redefine agency emergency powers; provide enforcement authority to the state agencies and establish procedures for the abatement of a release posing an imminent and substantial endangerment to the public health and safety or the environment; provide for joint agency permit hearings; provide for state remedial action at specified hazardous waste generation, treatment, storage or disposal facilities not covered by the federal environmental response law; provide for inspection of hazardous waste management facilities and the publication of inspection results.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 2, Solid Waste Disposal Act (Article 4477-7, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 2. DEFINITIONS. As used in this Act, unless the context requires a different definition:

(1) "Administratively complete" means that a complete permit application form, as well as the report and fees required to be submitted with a permit application, have apparently been submitted to the department or the department of water resources and the permit application is ready for technical review in accordance with the rules of the department or department of water resources.

(2) "Apparent recharge zone" means that recharge zone designated on maps prepared by the Bureau of Economic Geology of The University of Texas at Austin.

(3) ~~(1)~~ "Board" means the Texas Water Development Board.

(4) ~~(2)~~ "Board of health" means the Texas Board of Health.

(5) ~~(3)~~ "Class I industrial solid waste" means any industrial solid waste designated as Class I by the Executive Director of the Texas Department of Water Resources as any industrial solid waste or mixture of industrial solid wastes which because of its concentration or physical or chemical characteristics is toxic, corrosive, flammable, a strong sensitizer or irritant, a generator of sudden pressure by decomposition, heat, or other means and may pose a substantial present or potential danger to human health or the environment when improperly processed, stored, transported, or otherwise managed, including hazardous industrial waste.

(6) ~~(4)~~ "Commission" means the Texas Water Commission.

(7) ~~(5)~~ "Commissioner" means the Commissioner of Health.

(8) ~~(6)~~ "Composting" means the controlled biological decomposition of organic solid waste under aerobic conditions.

(9) ~~(7)~~ "Department" means the Texas Department of Health.

(10) ~~(8)~~ "Department of water resources" means the Texas Department of Water Resources.

(11) ~~(9)~~ "Disposal" means the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste or hazardous waste (whether containerized or uncontainerized) into or on any land or water so that such solid waste or hazardous waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including groundwaters.

(12) "Environmental response law" means the federal Comprehensive Environmental Response, Compensation and Liability Act of 1980 (Public Law No. 96-510).

(13) ~~(10)~~ "Executive director" means the Executive Director of the Texas Department of Water Resources.

(14) ~~(11)~~ "Garbage" means solid waste consisting of putrescible animal and vegetable waste materials resulting from the handling, preparation, cooking, and consumption of food, including waste materials from markets, storage facilities, handling, and sale of produce and other food products.

(15) ~~(12)~~ "Hazardous waste" means any solid waste identified or listed as a hazardous waste by the administrator of the United States Environmental Protection Agency (EPA) pursuant to the federal Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, 42 U.S.C. 6901 et seq., as amended.

(16) "Hazardous waste management unit" means a landfill, surface impoundment, waste treatment facility, waste pile or storage or processing facility used to manage hazardous waste.

(17) ~~(13)~~ "Industrial solid waste" means solid waste resulting from or incidental to any process of industry or manufacturing, or mining or agricultural operations.

(18) [(14)] "Local government" means a county; an incorporated city or town; or a political subdivision exercising the authority granted under Section 6 of this Act.

(19) [(15)] "Management" means the systematic control of any or all of the following activities of generation, source separation, collection, handling, storage, transportation, processing, treatment, recovery, or disposal of solid waste.

(20) [(16)] "Municipal solid waste" means solid waste resulting from or incidental to municipal, community, commercial, institutional, and recreational activities, including garbage, rubbish, ashes, street cleanings, dead animals, abandoned automobiles, and all other solid waste other than industrial solid waste.

(21) "Notice of intent to file an application" means that notice filed pursuant to Section 4(c)(12) of this Act.

(22) [(17)] "Person" means individual, corporation, organization, government or governmental subdivision or agency, business trust, partnership, association, or any other legal entity.

(23) [(18)] "Person affected" means any person who is a resident of a county or any county adjacent or contiguous to the county in which a solid waste facility is to be located including any person who is doing business or owns land in the county or adjacent or contiguous county and any local government. Such person affected shall also demonstrate that he has suffered or will suffer actual injury or economic damage.

(24) [(19)] "Processing" means the extraction of materials, transfer, volume reduction, conversion to energy, or other separation and preparation of solid waste for reuse or disposal, including the treatment or neutralization of hazardous waste, designed to change the physical, chemical, or biological character or composition of any hazardous waste so as to neutralize such waste, or so as to recover energy or material from the waste, or so as to render such waste nonhazardous, or less hazardous; safer to transport, store, or dispose of; or amenable for recovery, amenable for storage, or reduced in volume. Unless the state agency determines that regulation of such activity under this Act is necessary to protect human health or the environment, the definition of "processing" does not include activities relating to those materials exempted by the Administrator of the Environmental Protection Agency pursuant to the federal Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, 42 U.S.C. 6901 et seq., as amended.

(25) [(20)] "Radioactive waste" means that waste which requires specific licensing under Chapter 72, Acts of the 57th Legislature, Regular Session, 1961, as amended (Article 4590f, Vernon's Texas Civil Statutes), and the rules adopted by the Texas Board of Health under that law.

(26) "Release" means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, escaping, leaching, dumping, or disposing into the environment, but excludes:

(A) a release that results in exposure to persons solely within a workplace, with respect to a claim which those persons may assert against the employer of those persons;

(B) emissions from the engine exhaust of a motor vehicle, rolling stock, aircraft, vessel, or pipeline pumping station engine;

(C) release of source, by-product, or special nuclear material from a nuclear incident, as those terms are defined in the Atomic Energy Act of 1954, as amended (42 U.S.C. 2011 et seq.) if the release is subject to requirements with respect to financial protection established by the Nuclear Regulatory Commission under Section 170 of that Act, or, for the purposes of Section 104 of the environmental response law or any other response action, any release of source, by-product, or special nuclear material from any processing site designated under Section 102(a)(1)

or 302(a) of the Uranium Mill Tailings Radiation Control Act of 1978 (42 U.S.C. 7912 and 7942); and

(D) the normal application of fertilizer.

(27) "Remedial action" means those actions consistent with a permanent remedy taken instead of or in addition to removal actions in the event of a release or threatened release of a hazardous waste into the environment to prevent or minimize the release of hazardous wastes so that they do not migrate to cause an imminent and substantial danger to present or future public health and safety or the environment. The term includes such actions at the location of the release as storage, confinement, perimeter protection using dikes, trenches, or ditches, clay cover, neutralization, cleanup of released hazardous wastes or contaminated materials, recycling or reuse, diversion, destruction, segregation of reactive wastes, dredging or excavations, repair or replacement of leaking containers, collection of leachate and runoff, on-site treatment or incineration, provision of alternate water supplies, and any monitoring reasonably required to assure that those actions protect the public health and safety or the environment. The term includes the costs of permanent relocation of residents and businesses and community facilities where the Administrator of the United States Environmental Protection Agency or the executive director determines that alone or in combination with other measures this relocation is more cost effective than and environmentally preferable to the transportation, storage, treatment, destruction, or secure disposition off site of hazardous wastes or may otherwise be necessary to protect the public health or safety. The term does not include off-site transport of hazardous wastes or the storage, treatment, destruction, or secure disposition off-site of the hazardous wastes or contaminated materials unless the Administrator of the United States Environmental Protection Agency or the executive director determines those actions:

(A) are more cost effective than other remedial actions;

(B) will create new capacity to manage, in compliance with Subtitle C of the federal Solid Waste Disposal Act (42 U.S.C. 6921 et seq.), hazardous wastes in addition to those located at the affected facility; or

(C) are necessary to protect public health and safety or the environment from a present or potential risk that may be created by further exposure to the continued presence of those wastes or materials;

(28) "Removal" means the cleanup or removal of released hazardous wastes from the environment; the actions necessary to be taken in the event of the threat of release of hazardous wastes into the environment; the actions necessary to monitor, assess, and evaluate the release or threat of release of hazardous wastes; the disposal of removed material; or the taking of other actions as may be necessary to prevent, minimize, or mitigate damage to the public health and welfare or the environment that may otherwise result from a release or threat of release. The term also includes security fencing or other measures to limit access, provision of alternate water supplies, temporary evacuation and housing of threatened individuals not otherwise provided for, action taken under Section 104(b) of the environmental response law, and any emergency assistance that may be provided under the federal Disaster Relief Act of 1974 (42 U.S.C. 5121 et seq.).

(29) [(21)] "Rubbish" means nonputrescible solid waste (excluding ashes), consisting of both combustible and noncombustible waste materials; combustible rubbish includes paper, rags, cartons, wood, excelsior, furniture, rubber, plastics, yard trimmings, leaves, and similar materials; noncombustible rubbish includes glass, crockery, tin cans, aluminum cans, metal furniture, and like materials which will not burn at ordinary incinerator temperatures (1600°F to 1800°F).

(30) [(22)] "Sanitary landfill" means a controlled area of land upon which solid waste is disposed of in accordance with standards, rules, or orders established by the board of health or the board.

(31) [(23)] "Sludge" means any solid, semisolid, or liquid waste generated from a municipal, commercial, or industrial wastewater treatment plant, water supply treatment plant, or air pollution control facility exclusive of the treated effluent from a wastewater treatment plant.

(32) [(24)] "Solid waste" means any garbage, rubbish, sludge from a waste treatment plant, water supply treatment plant or air pollution control facility, and other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from industrial, municipal, commercial, mining, and agricultural operations, and from community and institutional activities, but does not include: (i) solid or dissolved material in domestic sewage, or solid or dissolved material in irrigation return flows, or industrial discharges subject to regulation by permit issued pursuant to Chapter 26, Water Code; (ii) soil, dirt, rock, sand and other natural or man-made inert solid materials used to fill land if the object of the fill is to make the land suitable for the construction of surface improvements; or (iii) waste materials which result from activities associated with the exploration, development, or production of oil or gas and are subject to control by the Texas Railroad Commission.

(33) [(25)] "Solid waste facility" means all contiguous land, and structures, other appurtenances, and improvements on the land, used for processing, storing, or disposing of solid waste. A facility may be publicly or privately owned and consist of several processing, storage, or disposal operational units; e.g., one or more landfills, surface impoundments, or combinations of them.

(34) [(26)] "Solid waste technician" means an individual who is trained in the practical aspects of the design, operation, and maintenance of a solid waste facility in accordance with standards, rules, or orders established by the board or board of health.

(35) [(27)] "Storage" means the holding of solid waste for a temporary period, at the end of which the solid waste is processed, disposed of, or stored elsewhere.

SECTION 2. Section 3, Solid Waste Disposal Act (Article 4477-7, Vernon's Texas Civil Statutes), is amended by adding Subsections (e), (f), (g), and (h) to read as follows:

(e)(1) In order to protect the public health and environment, it is declared to be the public policy of this state that, in generating, treating, storing, and disposing of hazardous wastes, preference shall be given to the following methods, to the maximum extent economically and technologically feasible, in the order named:

- (A) minimization of waste production;
- (B) reuse and/or recycling of waste;
- (C) treatment to destroy hazardous characteristics;
- (D) treatment to reduce hazardous characteristics;
- (E) underground injection; and
- (F) land disposal.

(2) In the case of treatment to destroy hazardous characteristics described in Subsection 3(e)(1)(C) above, on-site destruction is preferred but must be evaluated in the context of other relevant factors such as transportation hazard, distribution of risk, quality of destruction, operator capability, and site suitability.

(f) The department of water resources and the Railroad Commission of Texas shall jointly prepare an exclusive list of activities which are associated with oil and gas exploration, development and production and, hence, are exempted from regulation under this Act and the department of water resources' solid waste regulatory program. Such list shall be amended as necessary. Such list shall be a rule as that term is defined in Section 3(7) of the Administrative Procedure and Texas Register Act, as amended (Article 6252-13a, Vernon's Texas Civil Statutes).

(g)(1) There is created the interagency coordination council which shall coordinate the activities of its member agencies related to the regulation of solid waste and solid waste management facilities and the enforcement of the applicable solid waste laws and regulations. The council shall be comprised of the executive head or his/her designee of the following agencies:

- (A) the department of water resources;
- (B) the department;
- (C) the Texas Air Control Board; and
- (D) the Railroad Commission of Texas.

The representative from the department of water resources shall act as chairman of the council.

(2) The council shall conduct meetings on at least a quarterly basis during which it shall review the solid waste regulatory and enforcement activities of the previous quarter and coordinate future planned activities in the interest of efficiency and cooperation, including, but not limited to, the consideration of the use of waste exchange programs; the establishment of a clearinghouse for scientific and engineering information and data concerning hazardous waste management; the coordination of hazardous waste research and development activities; the coordination and development of consistent agency rules relevant to regulation of hazardous waste activities; the evaluation of means to assist small quantity hazardous waste generators and affected communities in the effective and safe management and disposal of their regulated wastes; the assessment of any pre-application public interactions with applicants to evaluate their effectiveness and to consider development of rules to incorporate such activities if appropriate; the consideration of the use of incentives to encourage waste minimization, reuse, recycling, and the use of resource recovery and detoxification equipment; and evaluation of the feasibility of household hazardous waste collection and disposal programs. The chairman shall prepare a report summarizing each quarterly meeting. The report shall be submitted for approval by a majority of agencies represented by the council and shall be a public document.

(h) The department and department of water resources shall submit a report to the presiding officers of the legislature and the governor on January 1, 1987, and each two years thereafter, providing the following information:

(1) A summary of a performance report of the imposed hazardous waste permit and disposal fees, if the fees are approved by the legislature, and related activities to determine the appropriateness of the fee structure;

(2) An evaluation of progress made in accomplishing the public policy of the state in regard to the preference of waste management methods as set forth in Section (3)(e)(1) of this Act;

(3) Projections, for a period of three years from due date of the report, of waste volumes by type of waste, disposition of wastes, and remaining capacity for the disposal of the wastes. The department and the department of water resources shall adopt rules requiring persons who generate, store, treat or dispose of hazardous waste to submit to the state agency of appropriate jurisdiction on an annual basis, reports detailing projections of waste volumes, disposition, and remaining capacity, as it relates to each facility owned or operated by such persons, in order that the state agencies may develop their report. The first report shall be submitted by March 1, 1986, and subsequent reports shall be submitted annually by March 1 thereafter.

SECTION 3. Subsection (c), Section 4, Solid Waste Disposal Act (Article 4477-7, Vernon's Texas Civil Statutes), is amended to read as follows:

(c) Each state agency may adopt and promulgate rules consistent with the general intent and purposes of this Act, and establish minimum standards of operation for all aspects of the management and control of the solid waste over which it has jurisdiction under this Act. In developing rules relating to hazardous

waste, each state agency shall consult with the State Soil and Water Conservation Board, the Bureau of Economic Geology of The University of Texas at Austin, and other appropriate state sources. Each ~~[Within one year after the effective date of this Act, each]~~ state agency shall adopt rules that:

(1) condition issuance of a permit for a new hazardous waste management facility or the areal expansion of an existing hazardous waste management facility on selection of a facility site that reasonably minimizes possible contamination of surface water and groundwater;

(2) prohibit the issuance of a permit for a new hazardous waste landfill or an areal expansion of such a facility, if the landfill is to be located in the 100-year floodplain existing prior to site development unless the landfill is to be located in areas with flood depths less than three feet;

(3) prohibit the issuance of a permit for a new hazardous waste management unit or an areal expansion of an existing hazardous waste management unit if the hazardous waste management unit is to be located in wetlands, as defined by the state agencies;

(4) prohibit the issuance of a permit for a new hazardous waste landfill, land treatment facility, surface impoundment, or waste pile, or areal expansion of such a facility, if the facility is to be located on the recharge zone of a sole source aquifer;

(5) require applicants for a new hazardous waste landfill, land treatment facility or surface impoundment which is to be located in the apparent recharge zone of a regional aquifer to prepare and file a hydrogeologic report documenting the potential effects, if any, on the regional aquifer in the event of a release from the waste containment system;

(6) prohibit the issuance of a permit for a new hazardous waste landfill or land treatment facility or the areal expansion of such a facility if the boundary of such landfill or land treatment facility is to be located within 1000 feet of an established residence, church, school, or dedicated public park which is in use at the time the notice of intent to file a permit application is filed with the state agency, or if no such notice is filed, at the time the permit application is filed with the state agency;

(7) ~~[(2)]~~ define the characteristics that make other areas [an area] unsuitable for a hazardous waste management facility including, but not limited to, consideration of:

(A) flood hazards;

(B) discharge from or recharge to a groundwater aquifer; [or]

(C) soil conditions;

(D) areas of direct drainage within one mile of a lake used to supply public drinking water;

(E) active geological processes;

(F) coastal high hazard areas, such as areas subject to hurricane storm surge and shoreline erosion; or

(G) critical habitat of endangered species;

(8) ~~[(3)]~~ prohibit issuance of a permit for a new hazardous waste management facility or an areal expansion of an existing hazardous waste management facility if the facility is to be located in an area determined to be unsuitable under rules adopted by the agency pursuant to paragraph (7) unless the design, construction, and operational features of the facility will prevent adverse effects from unsuitable site characteristics; [and]

(9) allow local governments to petition the appropriate state agency for a rule which restricts or prohibits the siting of new hazardous waste disposal facilities or other new hazardous waste management facilities in areas including, but not limited to, those meeting one or more of the characteristics delineated in Paragraph (7); provided, however, that no rule adopted by a state agency under this paragraph shall affect the siting of a new hazardous waste disposal facility or other new hazardous

waste management facility if an application or a notice of intent to file an application with respect to such facility has been filed with the appropriate state agency prior to the filing of a petition under this paragraph;

(10) prohibit issuance of a permit for a new hazardous waste landfill or the areal expansion of an existing hazardous waste landfill if there is a practical, economic, and feasible alternative to such a landfill that is reasonably available to manage the hazardous waste; and

(11) ~~[(4)]~~ require persons who generate, transport, process, store, or dispose of Class I industrial solid waste or hazardous waste to provide recordkeeping and use a manifest or other appropriate system to assure that such wastes are transported to a processing, storage, or disposal facility permitted or otherwise authorized for that purpose.

In adopting rules under Paragraphs (1) - ~~(11)~~ ~~[(3)]~~ of this section, the state agencies may distinguish between solid waste facilities based on type or hazard of hazardous wastes managed and the type of waste management method used.

SECTION 4. Paragraphs 1, 4, 6 and 10, Subsection (e), Section 4, Solid Waste Disposal Act (Article 4477-7, Vernon's Texas Civil Statutes), are amended to read as follows:

(1) When a permit application has been determined to be administratively complete, the [The] state agency to whom the permit application is submitted shall mail a copy of the application or a summary of its contents to the Texas Air Control Board, to the other state agency, to the mayor and health authorities of any city or town within whose territorial limits or extraterritorial jurisdiction the solid waste facility is located, and to the county judge and health authorities of the county in which the facility is located. The governmental entities to whom the information is mailed shall have a reasonable time, as prescribed by the state agency to whom the application was originally submitted, to present comments and recommendations on the permit application before that state agency acts on the application.

(4) Before a permit is issued, amended, extended, or renewed, the state agency to which the application is submitted shall provide an opportunity for a hearing to the applicant and persons affected; the state agency may also hold such a hearing upon its own motion.

(A) The owner or operator of a hazardous waste or solid waste management facility shall not be required to obtain a permit from any agency of the state other than the department or the department of water resources except where a permit is required pursuant to Part C of Title I of the federal Clean Air Act, 42 USC 7401 et seq. All participation in the review of a state permit application for the siting, construction and operation of a hazardous waste or solid waste management facility shall be through one agency hearing which shall be the sole permit hearing for the permit application and which shall be conducted by either the department or the department of water resources, in accordance with the division of jurisdiction between the department and the department of water resources established in Section 3 of this Act. Where appropriate, other agencies which might otherwise have jurisdiction for permitting solid waste facilities shall enter into memoranda of agreement with the department or the department of water resources or adopt rules which shall name either the department or the department of water resources, in accordance with the division of jurisdiction between the department and the department of water resources established in Section 3 of this Act, as the lead agency in all permit considerations and determinations concerning applications for the siting, construction and operation of hazardous waste or solid waste management facilities. Such memoranda of agreement or rules shall include criteria to be used by the lead agency in addressing the concerns of the other agencies which might otherwise have jurisdiction for permitting the facility. After the lead agency has

completed its technical review of the permit application and prior to the issuance of public notice relating to the opportunity for a hearing on the permit application, all other agencies which might otherwise have jurisdiction for permitting the facility shall have a period of forty-five (45) calendar days to review the proposed agency action and determine whether their concerns have been adequately addressed. In the event any other agency determines its concerns have not been adequately addressed its sole remedy with respect to permitting shall be to present its concerns in the permit proceedings of the department or the department of water resources; and such other agency shall have the right to request a hearing or to intervene in such permit proceedings as a matter of law. Permit applications for hazardous waste or solid waste management facilities for which contested evidentiary hearings have commenced at the Texas Air Control Board prior to the effective date of this provision, or appeals from decisions of the Texas Air Control Board on such applications, shall not be affected by this provision. An applicant may not withdraw a permit application to circumvent the intent of the preceding sentence.

(B) The state agency by rule shall establish procedures for public notice and any public hearing authorized under this paragraph. To improve the timeliness of notice to the public pertaining to any public hearing authorized under this paragraph, public notice of receipt of the permit application shall be provided at the time a permit application is ruled administratively complete by the department or the department of water resources. A hearing on a permit involving a solid waste facility for hazardous industrial solid waste must include one session held in the county in which the solid waste facility is located. Hearings under this paragraph shall be conducted in accordance with the hearing rules adopted by the state agency and the applicable provisions of the Administrative Procedure and Texas Register Act, as amended (Article 6252-13a, Vernon's Texas Civil Statutes).

(6) If a permit is issued, amended, renewed, or extended by a state agency in accordance with this Subsection (e), the owner or operator of the solid waste facility does not need to obtain a license for the same facility from a county, or from a political subdivision exercising the authority granted in Section 6 of this Act. Except as specifically provided in this Act, nothing in this section shall limit the powers and duties of any local government or other political subdivision of the state as vested under this or any other law; provided, however, that an applicant shall not be required to obtain a permit for the siting, construction or operation of a hazardous waste management facility from any local government or other political subdivision of the state, and no local government or other political subdivision of the state shall be empowered to adopt any rule, regulation or ordinance which conflicts with or is inconsistent with the requirements for hazardous waste management facilities as specified in the rules of a state agency or any permit issued by the state agency. In any action to enforce a rule, regulation or ordinance of a local government or political subdivision, the burden shall be on the owner or operator of the facility or on the applicant to demonstrate conflict or inconsistency with state requirements. Nothing in this paragraph shall affect the power of local governments or political subdivisions to adopt or enforce codes for buildings.

(10) Each state agency may issue an emergency order, either mandatory or prohibitory in nature, regarding any activity of solid waste management within its jurisdiction, whether such activity is covered by a permit or not, if the state agency determines that an emergency exists requiring immediate action to protect the public health and safety or the environment [the activity is creating or will cause extensive or severe property damage or economic loss to others or is posing an immediate and serious threat to human life or health and that other procedures available to the state agency to remedy or prevent the occurrence of the situation will result in unreasonable delay]. The order may be issued without notice and

hearing, or with such notice and hearing as the state agency deems practicable under the circumstances.

(i) If an emergency order is issued under this authority without a hearing, the issuing agency shall fix a time and place for a hearing to be held in accordance with the departmental rules by the state agency, so as to affirm, modify, or set aside the emergency order.

(ii) The requirements of paragraph (4) of this subsection relating to public notice do not apply to such a hearing, but such general notice of the hearing shall be given in accordance with the departmental rules of the state agency.

SECTION 5. Subsection (e), Section 4, Solid Waste Disposal Act (Article 4477-7, Vernon's Texas Civil Statutes) is amended by adding subsections (11) and (12) to read as follows:

(11) Each state agency shall establish a procedure by rule for the state agency to prepare compliance summaries relating to solid waste management activities of the applicant within the jurisdiction of such state agency. The compliance summaries shall be made available to the applicant and any interested person after the lead agency has completed its technical review of the permit application and prior to the issuance of the public notice relating to an opportunity for a hearing on the permit application. Evidence of compliance or noncompliance by an applicant for a solid waste facility with agency rules, permits or other orders relating to solid waste management may be offered by any party at a hearing on the applicant's application and admitted into evidence subject to applicable rules of evidence. All evidence admitted, including compliance history, shall be considered by the agency in determining whether to issue, amend, extend or renew a permit.

(12) The state agencies shall encourage applicants for hazardous waste management facilities to enter into agreements with persons affected through a local review committee process. During this process, citizens are encouraged to identify and resolve issues of concern by describing them to the applicant and requesting the applicant to provide information adequate to address such issues.

(A) If an applicant decides to participate in a local review committee process, such applicant shall file with the appropriate state agency a notice of intent to file an application, setting forth the proposed location and type of hazardous waste management facility. If the proposed facility is to be located within the corporate limits or the extraterritorial jurisdiction of a city, then a copy of the notice shall be delivered to the mayor of such city and the county judge. If the proposed facility is to be located in an unincorporated area of a county, then a copy of the notice shall be delivered to the county judge. The filing of the notice with the appropriate state agency shall initiate the pre-application review process.

(B) Within fifteen (15) days after the filing of the notice of intent pursuant to Paragraph (12)(A) of this subsection, the local review committee shall be appointed.

(i) The local review committee shall consist of twelve (12) members appointed by, but not including, elected officials. Eight (8) members of the committee shall represent broad community interests and shall include at least one each of the following: an industry representative; an environmental representative; an academic expert; a community planner; a public interest group representative; and a representative of the medical community. Four (4) members of the committee shall be persons affected by the proposed facility and should reside within five (5) miles of the proposed facility.

(ii) If the proposed facility is to be located within the corporate limits or the extraterritorial jurisdiction of a city, then the eight (8) regional members shall be appointed by the county judge and the four (4) local members shall be appointed by the mayor of such city.

(iii) If the proposed facility is to be located within an unincorporated area of a county, then all twelve (12) members of the committee shall be appointed by the county judge.

(C) The local review committee shall meet within twenty-one (21) days after the filing of the notice pursuant to Paragraph (12)(A) of this subsection. The pre-application review process shall continue for a period of ninety (90) days unless the process is shortened or lengthened by mutual agreement between the applicant and the local review committee.

(D) Any person, other than the applicant, who has participated in the local review committee process pursuant to this paragraph, may be awarded its reasonable costs or any part thereof for technical studies and reports and expert witnesses associated with the presentation of evidence at the public hearing relating to issues raised by such person in the local review committee process but which are still unresolved at the time of the commencement of the hearing on the permit application if the department or the department of water resources finds that such an award is appropriate; provided, however, such award may not exceed \$25,000 except in extraordinary circumstances as defined by rules of the state agencies. In determining the appropriateness of such an award, the state agency shall consider the following:

(i) whether the evidence or analysis provided through such studies, reports, and witnesses is significant to the evaluation of the application; and

(ii) whether the evidence or analysis would otherwise not have been provided in the proceeding.

(E) Except as provided in Subparagraph (I) of this paragraph, when an applicant has not entered into a local review committee process, the state agency, in determining the appropriateness of an award of costs pursuant to Paragraph (12)(D) of this subsection, shall waive any requirement that the person affected has participated in a local review committee process.

(F) Costs awarded by the department or the department of water resources pursuant to Paragraph (12)(D) of this subsection shall be taxed against the applicant. Rules shall be promulgated for the award of such costs. Judicial review of any award by the department or the department of water resources shall be pursuant to the substantial evidence rule as provided by Article 6252-13a, Vernon's Texas Civil Statutes.

(G) A local review committee shall:

(i) interact with the applicant in a structured manner during the preapplication review stage of the permitting process and, if necessary, during the technical review stage of the permitting process, to raise and attempt to resolve both technical and nontechnical issues of concern; and

(ii) produce a fact-finding report documenting resolved and unresolved issues and unanswered questions. The applicant shall submit such report to the state agency with its permit application.

(H) For the purposes of this paragraph, "participation in a local review process" is defined as a good faith effort to identify issues of concern, describe them to the applicant through the local review committee process, and attempt to resolve such issues prior to the commencement of the hearing on the permit application. A person is not required to be a member of a local review committee in order to meet the test of "participation in a local review process."

(I) If an applicant, after reasonable efforts to determine whether any local opposition exists to its proposed facility including, but not limited to, discussing the proposed facility with the county judge and other elected officials, does not enter into a local review committee process because of no apparent opposition or because a local review committee is not established despite the good faith efforts of the applicant, then such applicant shall not be subject to an award of costs pursuant to Paragraph (12)(D) of this subsection.

SECTION 6. Paragraph 2, Subsection (f), Section 4, Solid Waste Disposal Act (Article 4477-7, Vernon's Texas Civil Statutes), is amended to read as follows:

(f)(2) No person shall process, store, or dispose of hazardous wastes under this subsection without having first obtained a hazardous waste permit issued by the commission; provided, however, that any person who has on or before November 19, 1980, commenced on-site processing, storing or disposing of hazardous waste under this subsection and who has filed a hazardous waste permit application in accordance with the rules of the board may continue to process, store, or dispose of hazardous waste until such time as the commission approves or denies the application. Upon its own motion or the request of a person affected, the commission may hold a public hearing on an application for a hazardous waste permit in accordance with Section 4(e). The board by rule shall establish procedures for public notice and any public hearing authorized by this subsection. The commission may include requirements in the permit for any remedial actions by the applicant that are determined by this commission to be necessary to protect the public health and safety and the environment.

SECTION 7. Section 4, Solid Waste Disposal Act (Article 4477-7, Vernon's Texas Civil Statutes), is amended by adding a new Subsection (k) to read as follows:

(k) The state agencies may provide by rule or otherwise for interested persons to engage in activities which involve the collection and disposal of household materials which could be classified as hazardous wastes. No person shall be liable for damages as a result of actions taken or omitted in the course of collecting such household materials in accordance with the rules of the state agency. This shall not preclude liability for damages as a result of gross negligence or intentional misconduct on the part of such a person or for damages resulting during storage of such materials after the collection of such materials. Nothing in this section shall be construed to limit the liability of persons who are engaged in the business of transporting, storing, processing, or disposing of hazardous wastes and who in the course of transacting such business engage in the handling of household materials collected under programs authorized by this provision.

SECTION 8. Section 7, Solid Waste Disposal Act (Article 4477-7, Vernon's Texas Civil Statutes) is amended by redesignating existing Subsection (c) as Subsection (d) and adding Subsections (c) and (e) to read as follows:

(c) Regulated hazardous waste management and disposal facilities shall be inspected periodically by the department or department of water resources as required by the U. S. Environmental Protection Agency pursuant to the federal Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, as amended. In supplementing these inspections, the department and the department of water resources shall give priority to inspecting and reinspecting those facilities, including generators, deemed most likely to be noncompliant or most likely to pose an environmental or public health threat, regardless of whether they are characterized as major or non-major facilities. The state agencies may also randomly perform less comprehensive checks of facilities to supplement the more comprehensive inspections required by the U. S. Environmental Protection Agency.

(d) [(c)] Records copied pursuant to Subsection (b) of this section shall be public records, except that, if a showing satisfactory to the commissioner of the department or to the executive director is made by the owner of such records that the records would divulge trade secrets if made public, then the department or the department of water resources shall consider such copied records as confidential. Nothing in this subsection shall require the department of water resources or the department to consider the composition or characteristics of solid waste being processed, stored, disposed, or otherwise handled to be held confidential.

(e) The department and department of water resources shall publish annually beginning in January, 1986 a report to be known as the annual inspection report, which shall summarize the agency's inspection strategy and the results of all inspections conducted during the previous fiscal year. The annual inspection report

shall identify each hazardous waste facility inspected and shall include the following information: a listing of those facilities found to be compliant with all hazardous waste regulations, those facilities with only minor or clerical violations, and those found to have substantive, non-clerical violations. In addition, for substantive, non-clerical violations, the report shall identify the violations and either summarize corrective actions or describe the status of unresolved violations.

SECTION 9. Section 8, Solid Waste Disposal Act (Article 4477-7, Vernon's Texas Civil Statutes), is amended by adding Subsection (g) to read as follows:

(g) Imminent and Substantial Endangerment to the Public Health and Safety or the Environment.

(1) Notwithstanding any other provision of this Act, wherever it appears there is an actual or threatened release of solid waste that presents an imminent and substantial endangerment to the public health and safety or the environment from a solid waste facility where solid waste is stored, processed or disposed of or at any site where any one or more of such activities with respect to solid waste have been conducted in the past, regardless of whether such activity was lawful at the time, then the department or the department of water resources, as appropriate, may issue an administrative order to the persons identified in Paragraph (2) of this subsection restraining such person or persons from allowing or continuing the release or threatened release and requiring those persons to take actions necessary to provide and implement a cost effective and environmentally sound remedial action plan designed to eliminate the release or threatened release. An administrative order issued pursuant to this subsection shall be mailed to the persons identified in the order by certified mail, return receipt requested, or may be delivered by hand delivery to the persons identified in the order. Alternatively, the department or department of water resources, as appropriate, may cause a civil suit to be instituted in a district court in the county in which the actual release is occurring or threatened release may occur for injunctive relief to restrain the person or persons, as identified in Paragraph (2) of this subsection, from allowing or continuing the release or threatened release and requiring those persons to take actions necessary to provide and implement a cost effective and environmentally sound remedial action plan designed to eliminate the release or threatened release. The provisions of this subsection are cumulative of all other remedies and nothing in this subsection exempts any person from complying with or being subject to any other provision of law.

(2) The persons subject to this subsection, subject only to the defenses listed in Paragraph (3) of this subsection, are as follows:

(A) any owner or operator of a solid waste facility;

(B) any person who at the time of processing, storage or disposal of any solid waste owned or operated the solid waste facility;

(C) any person who by contract, agreement, or otherwise, arranged for the processing, storage or disposal, or arranged with a transporter for transport for processing, storage or disposal of solid waste owned or possessed by such person, by any other party or entity, at the solid waste facility owned or operated by another party or entity and containing such solid waste, or at the site to which such solid waste was transported and which site contains such solid wastes; and

(D) any person who accepts or accepted any solid waste for transport to a solid waste facility or site selected by such person, from which there is a release or threatened release of a solid waste which presents an imminent and substantial endangerment to the public health and safety or the environment.

(3) The persons identified in Paragraph (2) of this subsection shall be liable under Paragraph (1) of this subsection unless such person can establish by a preponderance of the evidence that the release or threatened release was caused solely by:

(A) an act of God;
(B) an act of war;
(C) an act or omission of a third party other than an employee or agent of the defendant or other than one whose act or omission occurs in connection with a contractual relationship, existing directly or indirectly, with the defendant (except where the sole contractual arrangement arises from a published tariff and acceptance for carriage by a common carrier by rail), if the defendant establishes by a preponderance of the evidence that (i) he exercised due care with respect to the solid wastes concerned, taking into consideration the characteristics of such solid wastes, in light of all relevant facts and circumstances, and (ii) he took precautions against foreseeable acts or omissions of any such third party and the consequences that could foreseeably result from such acts or omissions; or

(D) any combination of the foregoing paragraphs.

(4) Where the release or threatened release caused by a person's acts or omissions is proved by a preponderance of the evidence to be divisible, that person shall be liable only for the elimination of that release or threatened release attributable to him. Where the release or threatened release is not proved to be divisible, all persons liable under Paragraph (2) shall be jointly and severally liable for eliminating the release or threatened release. For purposes of this section "divisible" means that the waste released or threatened to be released has been and is capable of being managed separately under the remedial action plan.

(5) When fewer than all of the parties identified in this subsection agree with the state to take remedial action to abate an actual or threatened release of solid waste that is an imminent and substantial endangerment to the public health and safety or the environment pursuant to an administrative order issued under this section or an action filed by the state, the state may seek a judgment against the non-settling parties for the total amount of the cost of the remedial action minus that amount agreed to be paid or expended by any settling parties. In any action for contribution brought by a non-settling party against a settling party, the non-settling party shall have the burden to prove that the amount of cleanup costs agreed to be paid by a settling party pursuant to an agreement with the state was unreasonable considering the factors delineated in Section 11(a) and the need to undertake timely cleanup action with respect to the release or threatened release.

SECTION 10. Section 9, Solid Waste Disposal Act (Article 4477-7, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 9. APPEALS; JOINDER. (a) A person affected by any ruling, order, decision, or other act of the department or department of water resources may appeal by filing a petition in a district court of Travis County. A person affected by any ruling, order, decision or other act of a county, or of a political subdivision exercising the authority granted in Section 6 of this Act, may appeal by filing a petition in a district court having jurisdiction in the county or political subdivision. Except as provided in Section 9(b), the [The] petition must be filed within 30 days after the date of the action, ruling, order, or decision of the governmental entity complained of. Service of citation must be accomplished within 30 days after the date the petition is filed. Any person filing a petition appealing an administrative order issued pursuant to Section 8(g) must join as parties the state agency issuing the administrative order and may join as parties any other person named in the administrative order and any other person who is or may be liable for the elimination of the actual or threatened release of solid waste governed by the administrative order. The plaintiff shall pursue his action with reasonable diligence. If the plaintiff does not prosecute his action within one year after the action is filed, the court shall presume that the action has been abandoned. The court shall dismiss the suit on a motion for dismissal made by the governmental entity whose action is appealed, unless the plaintiff, after receiving due notice, can show good and

sufficient cause for the delay. Except as provided in Section 9(c), in [fn] an appeal from an action of the department, the department of water resources, a county, or a political subdivision exercising the authority granted in Section 6 of this Act, the issue is whether the action is invalid, arbitrary or unreasonable.

(b) The filing of a petition appealing an order issued pursuant to Section 8(g) within 45 days after the date of the receipt of the order shall stay the administrative order as to the appealing party pending action by the district court. However, the filing of the petition shall not affect any other enforcement powers of the department or department of water resources. An order issued pursuant to Section 8(g) shall become final 45 days after the date of the receipt of the order unless the order is appealed within such 45 day period.

(c) The district court shall uphold an administrative order issued pursuant to Section 8(g) if the department or department of water resources, by a preponderance of the evidence, proves

(1) that there is an actual or threatened release of solid waste that is an imminent and substantial endangerment to the public health and safety or the environment, and

(2) that the person made subject to the administrative order is liable for the elimination of the release or threatened release, in whole or in part.

(d) Any person made a party to an appeal of an administrative order issued pursuant to Section 8(g) may join as parties any other persons who are or may be liable for the elimination of the release or threatened release, in whole or in part.

(e) Failure by any party to file an action for contribution and/or indemnity in an appeal proceeding relating to an administrative order issued pursuant to Section 8(g) shall not constitute a waiver of any rights under this Act or any other provision of law.

(f) In appeals of an administrative order issued pursuant to Section 8(g), the district court upon establishing the validity of the order, shall issue an injunction requiring all persons named or joined against whom liability has been established by the department or department of water resources or any other party to comply with the terms of the administrative order.

(g) As between parties determined to be liable pursuant to Section 8(g), the court may, as equity requires, apportion cleanup costs in accordance with the provisions of Section 11(a) and grant any other appropriate relief.

SECTION 11. The Solid Waste Disposal Act (Article 4477-7, Vernon's Texas Civil Statutes) is amended by adding new Sections 10, 11, 12, and 13 to read as follows:

Sec. 10. JOINDER OF PARTIES IN ACTIONS FILED BY THE STATE.

(a) In any action brought by the attorney general under Section 8(g) of this Act seeking an injunction to eliminate a release or threatened release, the attorney general shall, and any party may, join as parties all persons reasonably believed to be liable for the release or threatened release in accordance with Section 8(g)(2) of this Act.

(b) Failure of the attorney general or any party to name or join a person as a party shall not be a defense to any action against that person for contribution and/or indemnity.

(c) In any action brought by the attorney general under Section 8(g) the district court shall grant relief on the same basis as provided in Sections 9(c), (f), and (g) of this Act.

Sec. 11. COST RECOVERY. (a) Apportionment of costs for the elimination of a release or threatened release of solid waste shall be in accordance with the following factors: (1) the relationship between the parties' actions in storing, processing and disposal of solid waste and the remedy required to eliminate the release or threatened release; (2) the volume of solid waste each party is

responsible for at the solid waste facility or site to the extent that the costs of the remedy are based on the volume of solid waste present; (3) consideration of toxicity or other waste characteristics if these characteristics affect the cost of elimination of the release or threatened release; and (4) a party's cooperation with state agencies, its cooperation or noncooperation with the pending efforts to eliminate the release or threatened release, or a party's actions regarding the processing, storage or disposal of solid waste, as well as the degree of care which the party exercised.

(b) Persons subject to a court injunction or an administrative order issued pursuant to this Act, or those third parties identified in Section 13(g) who take action to eliminate a release or threatened release, in addition to having the right to file an action for contribution and/or indemnity in an appeal proceeding or in an action brought by the attorney general, may bring suit in the district court of the county where the release or threatened release is or was located or in such other county where venue would be proper under Article 1995, Vernon's Texas Civil Statutes, for cost recovery against any other person who is or may be liable if the persons seeking cost recovery made reasonable attempts to notify the persons against whom recovery is sought (i) of the existence of the release or threatened release and (ii) that the person seeking cost recovery intended to take steps to eliminate the release or threatened release. Any fact determination or ruling by a district court in an appeal of an administrative order under Section 9(b) shall not constitute res judicata or collateral estoppel as to any issue brought in a proceeding under this subsection with respect to any party not joined in such appeal.

(c)(1) For suits seeking cost recovery under Section 11(b), the court shall determine the amount of cost recovery based on the criteria listed in Section 11(a).

(2) Recoverable costs under this section shall include: (A) costs to eliminate the release or threatened release, (B) reasonable costs of study regarding such elimination, (C) costs of all monitoring, and (D) reasonable attorney's fees in prosecuting the cost recovery action.

Sec. 12. CREATION OF RIGHTS. The provisions of Section 8(g) and the provisions of Section 11(b) and the enforcement by the department or department of water resources of such provisions shall not create any rights or causes of action on behalf of any person other than those specifically and expressly stated herein or change any common law or rule of decision except as limited in this Act to actions by the department or department of water resources for the elimination of an actual release or threatened release of solid waste that is an imminent and substantial endangerment to the public health and safety or the environment.

Sec. 13. IDENTIFICATION AND ASSESSMENT OF HAZARDOUS WASTE FACILITIES. (a) The department of water resources, in cooperation with the department, shall conduct and complete a survey of the state by July 1, 1986, the purpose of which is to identify to the extent feasible every hazardous waste facility which may constitute an imminent and substantial endangerment to public health and safety or the environment. The work already performed to identify candidate sites for inclusion in the federal National Priorities List shall serve as the basis for such a survey. As soon as possible after completion of a draft survey, the department of water resources shall conduct a public hearing to solicit comments on the draft survey and information on additional candidate sites. Not later than January 1, 1987, the department of water resources shall publish a registry identifying each facility listed by the survey, the relative priority of the need for action at each facility to remedy environmental and health problems resulting from the presence of hazardous wastes at such facilities, and setting forth recommendations for actions which may be pursued to achieve effective, efficient, and timely cleanup or other resolution of the problems identified for each facility. Such recommendations shall not constitute the remedial investigation/feasibility

study for the relevant facility, but shall form the preliminary basis for such a study. The cleanup of such facilities shall be achieved first by private party funding, second with the aid of federal funds, and third, if necessary, with state funds from the hazardous waste permit and disposal fee, if the fee is approved by the legislature. A draft copy of the registry shall be circulated to the department for comment prior to publication. Three copies of the registry, as published, shall be delivered to the Office of the Governor.

(b)(1) The department of water resources may conduct investigations of the facilities listed in the registry and may investigate areas or sites which it has reason to believe should be included in the registry, in accordance with Section 7 of this Act.

(2) The department of water resources shall, as part of the registry, assess by January 1, 1987 and each year thereafter, and, based upon new information received from sources including but not limited to public hearings, reassess, in cooperation with the department, the relative priority of the need for action at each facility listed in the registry to remedy environmental and health problems resulting from the presence of hazardous wastes at such facilities.

(c) The department of water resources shall update the registry periodically to add facilities which may constitute an imminent and substantial endangerment to public health and safety or the environment and to delete facilities which have been cleaned up pursuant to Subsection (g) of this section or delisted pursuant to Subsection (e) of this section.

(d) The department of water resources shall file an affidavit or notice in the real property records of the county in which a facility is located identifying those facilities included in the registry, as well as those facilities deleted from the registry.

(e)(1) Within thirty (30) days after the survey pursuant to Subsection (a) of this section is completed, the department of water resources shall notify in writing the parties identified as responsible for all or any part of each facility or area included in the registry prepared pursuant to such Subsection (a) of the inclusion of the facility or area on such survey. Thereafter, two months before any unincluded facility or area is added to the registry, the department of water resources shall notify in writing the parties identified as responsible for all or any part of such facility or area of the contemplated inclusion of such facility or area on such registry. Written notifications under this subsection shall be by certified mail by mailing notice to each such named responsible party at the party's last known address.

(2) Notice pursuant to Paragraph (1) of this subsection shall include but not be limited to a description of the duties and restrictions imposed by Subsection (f) of this section.

(3) Non-receipt of any notice mailed to a named responsible party pursuant to this subsection shall in no way affect the responsibilities, duties or liabilities imposed on any such party.

(4) Any owner or operator or other named responsible party of a facility listed or to be listed in the registry of the department of water resources pursuant to this section may request the department of water resources to delete such facility from the registry, modify the facility's priority within the registry or modify any information regarding such facility by submitting a written statement setting forth the grounds of the request in such form as the department of water resources may require.

(5) Within one hundred and eighty (180) days after the effective date of this provision, the department of water resources shall propose rules establishing procedures, including public hearings, for review of delisting requests submitted pursuant to this subsection.

(f)(1) Subsequent to the listing of a facility on the registry prepared and maintained by the department of water resources, no person may substantially

change the manner in which the facility is used without notifying the department of water resources and receiving written approval of the department of water resources for such change. A substantial change of use shall be defined in rules adopted by the board and shall include, but not be limited to, actions such as the erection of a building or other structure at such facility, the use of such facility for agricultural production, the paving of such facility for use as a roadway or parking lot, and the creation of a park or other public or private recreational facility on such facility. Such notice shall be in writing, addressed to the executive director and shall include a brief description of the proposed change of use. Such notice shall be submitted in writing at least sixty days before any physical alteration of the land or construction will occur or, in the event any alteration or construction is not required to initiate such change of use, at least sixty days before any change of use.

(2) The executive director shall not approve such change of use if such new use will interfere significantly with a proposed, ongoing or completed hazardous waste facility remedial action program at such facility or expose the environment or public health to a significantly increased threat of harm.

(g)(1) The cleanup of a facility identified by the department of water resources in the registry which constitutes an imminent and substantial endangerment to the public health and safety or the environment shall proceed on an expedited basis pursuant to the following guidelines:

(A) wherever possible, parties identified as liable parties pursuant to Section 8(g)(2) should be notified by the department of water resources of an opportunity to participate in a voluntary cleanup of the facility;

(B) if all persons liable under Section 8(g)(2) do not volunteer to develop and implement a remedial action program for the facility, then private parties who are willing to participate in cleanup activities voluntarily should be allowed to do so and they may seek cost recovery pursuant to Section 11(b) from those liable parties not participating in the voluntary cleanup;

(C) if no parties identified as liable under Section 8(g)(2) volunteer to develop and implement a remedial action program for the facility, then independent third parties who are willing to participate voluntarily in the cleanup of the facility should be permitted to contract with the department of water resources to do so and they may seek cost recovery pursuant to Section 11(b) from those liable parties not participating in the voluntary cleanup;

(D) where voluntary assistance from the private sector is not forthcoming, federal funds should be used for facility cleanup if such funds are available within a reasonable length of time; and

(E) state funds should be used only when a liable party or independent third party cleanup or federal funds are not available.

(2) Whenever the department of water resources finds that there exists an actual or threatened release of hazardous wastes at a hazardous waste facility listed on the registry that presents an imminent and substantial endangerment to the public health and safety or the environment, it may order the owner and/or operator of such facility and/or any other person responsible for the release or threatened release at such facility (A) to develop a remedial action program, subject to the approval of the department of water resources, at such facility, and (B) to implement such program within reasonable time limits specified in the order. The provisions in Sections 8(g), 9, 10, and 11 of this Act relating to administrative orders shall apply to orders issued pursuant to this paragraph.

(3) Whenever the department of water resources, after investigation, finds that there exists a release or threatened release of hazardous wastes at a facility identified in the registry that:

(A) is causing irreversible or irreparable harm to the public health and safety or the environment; and

(B) the immediacy of the situation makes it prejudicial to the public interest to delay action until an administrative order can be issued to liable parties pursuant to Paragraph (2) of this subsection or until a judgment can be entered in an appeal of an administrative order; the department of water resources may, with the funds available to the department of water resources from the hazardous waste permit and disposal fees, if approved by the Legislature, undertake immediate removal action at the facility to alleviate the harm. After the immediate danger of irreversible or irreparable harm has been alleviated, the department of water resources shall proceed pursuant to Paragraph (2) of this subsection. Findings required pursuant to this paragraph shall be in writing and may be made by the department of water resources on an ex parte basis subject to judicial review pursuant to the substantial evidence rule as provided by Article 6252-13a, Vernon's Texas Civil Statutes.

(4) Whenever a person ordered to eliminate an imminent and substantial endangerment to the public health and safety or the environment has failed to do so within the time limits specified in the order, and no third party has agreed to develop and implement a remedial action program for the facility pursuant to Paragraph (1)(C) of this subsection, the department of water resources may develop and implement a remedial action program for such facility. The reasonable expenses of developing and implementing such remedial action program by the department of water resources shall be paid by the persons to whom the order was issued and the state may seek to recover such reasonable expenses in any court of appropriate jurisdiction. Any action instituted by the department of water resources pursuant to this paragraph shall be subject to the provisions of Sections 8(g), 9, 10, and 11 of this Act.

(5) In the event that the department of water resources has found that there exists a release or threatened release of hazardous wastes at a facility on the registry which presents an imminent and substantial endangerment to the public health and safety or the environment, but after a reasonable attempt to determine who may be liable for such release or threatened release in accordance with Section 8(g), is either unable to determine who may be liable, or is unable to locate a person who may be liable, and no independent third party agrees to develop and implement a remedial action program for the facility in accordance with Paragraph (1)(C) of this subsection, the department of water resources may develop and implement a remedial action program for such facility. Federal funds shall be used for such cleanup to the maximum extent reasonably available in accordance with Paragraph (1)(D) of this subsection. The department of water resources shall make every effort, to secure appropriate relief from any person subsequently identified or located who is liable for the release or threatened release of hazardous waste at such facility, including, but not limited to, development and implementation of a remedial action program, payment of the cost of such a program and recovery of any reasonable expenses incurred by the state.

(6) The goal of any remedial action program shall be the elimination of the imminent and substantial endangerment to the public health and safety or the environment posed by a release or threatened release of hazardous wastes at a facility. The appropriate extent of remedy at any particular facility shall be determined by the department of water resources' selection of the remedial alternative which the state agency determines is cost-effective (i.e., the lowest cost alternative that is technologically feasible and reliable and which effectively mitigates and minimizes damage to and provides adequate protection of the public health and safety or the environment).

(7) All cleanup costs for which a person is liable to the state shall constitute a lien in favor of the state on the real property and the rights to such real property that are subject to or affected by a cleanup action.

(A) The lien imposed by this paragraph shall arise and attach to the real property subject to or affected by a cleanup action at the time an affidavit is recorded and indexed in accordance with this paragraph in the county in which such real property is located. The lien shall continue until the liability for the costs (or a judgment against the person arising out of such liability) is satisfied or becomes unenforceable through operation of an applicable statute of limitations.

(B) The affidavit shall be executed by an authorized representative of the department of water resources and must show:

- (i) the name and address of the persons liable for such costs;
- (ii) a description of the real property that is subject to or affected by the cleanup action for the costs or claims; and
- (iii) the amount of the costs and the balance due.

(C) The county clerk shall record the affidavit in records kept for that purpose and shall index the affidavit under the name of the persons liable for such costs.

(D) The department of water resources shall record a relinquishment or satisfaction of the lien when the lien is paid or satisfied.

(E) The lien may be foreclosed only on judgment of a court of competent jurisdiction foreclosing the lien and ordering the sale of the property subject to the lien.

(F) The lien imposed by this paragraph shall not be valid as against any purchaser or holder of a mortgage, lien, or other encumbrance until the affidavit as provided in this paragraph has been recorded as provided herein in the county in which the real property subject to or affected by a cleanup action is located. This provision does not apply with respect to any person who at the time such person acquired an interest on the real property has or reasonably should have actual notice or knowledge that the real property is subject to or affected by a cleanup action, or has knowledge that the state has incurred cleanup costs.

(G) If a lien is fixed or attempted to be fixed as provided in this paragraph, the owner of the real property affected by the lien may file a bond to indemnify against the lien. The bond shall be filed with the county clerk of the county in which the real property subject to the lien is located. An action to establish, enforce, or foreclose any lien or claim of lien covered by the bond must be brought not later than the 30th day after the date of service of notice of the bond.

(H) The bond must:

- (i) describe the real property upon which the lien is claimed;
- (ii) refer to the lien claimed in a manner sufficient to identify it;
- (iii) be in an amount double the amount of the lien referred to;
- (iv) be payable to the department of water resources;
- (v) be executed by the party filing the bond as principal, and a corporate surety authorized under the law of this state to execute the bond as surety; and
- (vi) be conditioned substantially that the principal and sureties will pay to the department of water resources the amount of the lien claimed, plus costs, if the claim is proved to be a lien on the real property.

(I) After the bond is filed, the county clerk shall issue notice of the bond to the named obligee. A copy of the bond must be attached to the notice. The notice may be served on each obligee by having a copy delivered to the obligee by any person competent to make oath of the delivery. The original notice shall be returned to the office of the county clerk, and the person making service of copy shall make an oath on the back of the copies showing on whom and on what date the copies were served. The county clerk shall record the bond notice and return in records kept for that purpose. In acquiring an interest in real property, a purchaser or lender may rely on and is absolutely protected by the record of the bond, notice, and return.

(J) The department of water resources may sue on the bond after the 30th day following the date on which the notice is served, but may not sue on the bond later than one year after the date on which the notice is served. If the department of water resources recovers in a suit on the lien or on the bond, it is entitled to also recover a reasonable attorney's fee.

(8) Moneys for actions taken or to be taken by the department of water resources in connection with the elimination of an imminent and substantial endangerment to the public health and safety or the environment pursuant to this section shall be payable directly to the agency from the hazardous waste permit and disposal fees, if approved by the legislature. This includes any costs of inspection or sampling and laboratory analysis of wastes, soils, air, surface water and groundwater done on behalf of a state agency.

(9) The department of water resources shall seek private party cleanup of facilities prior to expenditure of federal or state funds for such cleanups. Private parties shall coordinate with ongoing federal and/or state hazardous waste programs and obtain necessary approvals for any such cleanup actions. No action taken by any such person to contain or remove a release or threatened release in accordance with an approved remedial action plan shall be construed as an admission of liability for said release or threatened release. No person who renders assistance in containing or removing a release or threatened release in accordance with an approved remedial action plan shall be liable for any additional cleanup costs at the facility resulting solely from acts or omissions of such person in rendering such assistance in compliance with the approvals required by this subsection, unless such cleanup costs were caused by such person's gross negligence or willful misconduct. Except as specifically provided herein, the provisions of this subsection shall not be construed to expand or diminish the common law tort liability, if any, of private parties participating in a cleanup action for civil damages to third parties.

SECTION 12. Section 10, Solid Waste Disposal Act (Article 4477-7, Vernon's Texas Civil Statutes) is amended to read as follows:

Sec. 14 [10]. ~~[CUMULATIVE ACT]~~ RELATIONSHIP TO OTHER LAWS. ~~[This Act is cumulative of and supplemental to any other laws and parts of laws relating to the same subject and does not repeal those other laws or parts of laws.]~~ Except as specifically provided in this Act, nothing [Nothing] in this Act diminishes or limits, or is intended to diminish or limit, the authority of the department, the department of water resources, the Texas Air Control Board or local government in performing any of the powers, functions, and duties vested in those governmental entities by other laws.

SECTION 13. Section 27.002, Water Code, is amended by adding Subsection (15) to read as follows:

(15) "Hazardous waste" has the meaning assigned to that term by Section 2(12), Solid Waste Disposal Act, Chapter 405, Acts of the 61st Legislature, Regular Session, 1969, as amended (Article 4477-7, Vernon's Texas Civil Statutes).

SECTION 14. Section 27.018, Water Code, is amended by adding Subsection (c) to read as follows:

(c) An application for an injection well to dispose of hazardous waste shall be subject to the pre-application local review process established by Section 4(e)(12) of Article 4477-7, Vernon's Texas Civil Statutes.

SECTION 15. Section 27.051, Water Code, is amended by adding Subsections (d) and (e) to read as follows:

(d) The department of water resources, in determining if the use or installation of an injection well for the disposal of hazardous waste is in the public interest under Subsection (a)(1) of this section, shall consider, but shall not be limited to the consideration of:

(1) compliance history of the applicant in accordance with the provisions of Subsection (e) of this section;

(2) whether there is a practical, economic, and feasible alternative to an injection well reasonably available to manage the hazardous waste; and

(3) whether the applicant will maintain sufficient public liability insurance or other demonstration of financial responsibility for bodily injury and property damage to third parties that is caused by sudden and non-sudden accidents. A liability insurance policy which satisfies the policy limits required by the hazardous waste management regulations of the department of water resources for the applicant's proposed pre-injection facilities shall be deemed "sufficient" under this paragraph if the policy also covers the injection well itself.

(e) The department of water resources shall establish a procedure by rule for its preparation of compliance summaries relating to the history of compliance and noncompliance by the applicant with the rules adopted or orders or permits issued by the department of water resources under this chapter for any injection well for which a permit has been issued under this chapter. The compliance summaries shall be made available to the applicant and any interested person after the department of water resources has completed its technical review of the permit application and prior to the promulgation of the public notice relating to the issuance of the permit. Evidence of compliance or noncompliance by an applicant for an injection well for the disposal of hazardous waste with the rules adopted or orders or permits issued by the department of water resources under this chapter may be offered by any party at a hearing on the applicant's application and admitted into evidence subject to applicable rules of evidence. All evidence admitted, including compliance history, shall be considered by the department of water resources in determining whether to issue, amend, extend or renew a permit.

SECTION 16. The amendments to the Solid Waste Disposal Act (Article 4477-7, Vernon's Texas Civil Statutes) created by Section 3 of this Act shall not apply to any hazardous waste management facility for which a notice of intent to file an application, or an application, has been filed with the department or the department of water resources, or to a hazardous waste management facility which has otherwise been authorized to operate by the rules of the department or department of water resources, as of the effective date of this Act.

SECTION 17. This Act takes effect September 1, 1985.

SECTION 18. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

The bill was on the calendar yesterday and was postponed until 9 a.m. today.

CSHB 2358 was read second time.

(McWilliams now present)

Representative Schluter offered the following amendment to **CSHB 2358**:

Amend **CSHB 2358** as follows:

(1) On page 2, strike lines 6 through 8 and substitute therefor a new Subsection (2) to read as follows:

(2) "Apparent recharge zone" means that recharge zone designated on maps prepared or compiled by, and located in the offices of, the department of water resources.

(2) On page 3, strike Subsection (16) of Section 2 on lines 24 through 26 and renumber the remaining subsections of Section 2 accordingly.

(3) On page 14, strike line 18 and substitute therefor the following: "agencies. For the purposes of this paragraph, a 'hazardous waste

management unit' means a landfill, surface impoundment, land treatment facility, waste pile, or storage or processing facility, used to manage hazardous waste;".

(4) On page 16, on line 19, between the word "the" and the word "hazardous", insert the words "types and classes of", and before "; and" add the words "which might be disposed of at the landfill".

(5) On page 20, on line 20, between "permit" and "issued" insert the following: "heretofore or hereafter".

(6) On page 20, insert the following between "state requirements." on line 24 and "Nothing" on line 25: The validity or applicability of any such rule, regulation, or ordinance of a local government or a political subdivision may be determined in an action for declaratory judgment pursuant to Article 2524-1, Vernon's Texas Civil Statutes, if it is alleged that the rule, regulation, or ordinance, or its threatened application, interferes with or impairs or threatens to interfere with or impair the legal rights or privileges of the plaintiff regarding any application for or the issuance of a permit for the siting, construction or operation of a hazardous waste management facility. The local government or political subdivision whose rule, regulation or ordinance is being questioned must be made a party to the action and the department or the department of water resources shall be given written notice by certified mail of the pendency of any such action and either the department or the department of water resources may become a party thereto. A declaratory judgment may be rendered whether the plaintiff has requested the department, the department of water resources, the local government or political subdivision or any other court to pass on the validity or applicability of the rule, regulation or ordinance in question.

(7) On page 22, between the word "for" on line 14 and the word "hazardous" on line 15, insert the following: "solid waste facilities under the jurisdiction of the department or for".

(8) On page 22, on line 16, strike the word "affected" and insert the word "affected" before the word "person".

(9) On page 22, on line 17, strike the work "citizens" and substitute the word "persons".

(10) On page 22, on line 17, strike the words "and resolve".

(11) On page 22, on lines 18 through 20, strike the phrase "by describing them to the applicant and requesting the applicant to provide information adequate to address such issues" and substitute therefor the following: "and work with the applicant to resolve such issues".

(12) On page 23, add the following sentence at the end of line 8: "The state agencies shall adopt rules relating to the composition and appointment of local review committees."

(13) On page 23, strike lines 9 through 26.

(14) On page 24, on line 8, between the word "paragraph" and ",", insert the following: "with respect to an application for a hazardous waste management facility".

(15) On page 24, on lines 15 through 17, strike the phrase "such award may not exceed \$25,000 except in extraordinary circumstances as defined by rules of the state agencies" and substitute therefor the following: "that the total award granted to all such persons by the state agency with respect to such application may not exceed \$25,000".

(16) On page 24, on line 21, strike the word "and".

(15) On page 24, on line 23, strike the period "." and substitute therefor the following: "; and".

(17) On page 24, insert between lines 23 and 24 the following subparagraph (iii) to read as follows:

(iii) whether the local review committee was established in accordance with the rules of the department or department of water resources.

(18) On page 26, insert between lines 8 and 9 the following new paragraph (J) to read as follows:

(J) Paragraph (12) of Section 4(e) shall not apply to a solid waste or hazardous waste management facility for which an application has been filed, or which has otherwise been authorized to operate, as of the effective date of such paragraph.

(19) On page 27, on line 5, strike "may" and substitute therefor the word "shall", and strike "or otherwise".

(20) On page 27, on line 8, between "wastes." and "No person" insert the following: "Such rules shall specify any necessary requirements relating to the training of persons involved in the collection and disposal of such household materials."

(21) On page 27, on line 10, strike "collecting" and substitute therefor the following: "advertising, promoting or distributing educational materials relating to the collection or disposal of".

(22) On page 27, on line 13, insert a period "." after "person" and strike the remainder of the line.

(23) On page 27, strike lines 14 through 19.

(24) On page 28, on line 26, between "year" and ".", insert the following: "and list hazardous waste treatment, storage and disposal facilities not inspected".

(25) On page 30, on line 4, between "order" and "." insert the following: "or, upon failure of service of the order by certified mail or hand delivery, such order may be served on such persons by publication one time in the Texas Register and one time in a newspaper of several circulation in each county in which any of such persons had his last known address. An administrative order under this subsection shall be an executive act and shall not require prior notice or an adjudicative hearing before the state agency".

(26) On page 34, on line 10, strike the word "the" at the end of the line.

(27) On page 34, on line 11, between "receipt" and "of" insert the following: "hand delivery, or publication service".

(28) On page 34, on line 15, between "final" and "45" insert the following: "as to non-appealing parties".

(29) On page 34, on line 16, strike the second "the" and insert between "receipt" and "of" the following: "hand delivery, or publication service".

(30) On page 34, on lines 16-17, strike "unless the order is appealed with such 45 day period" and substitute: "by, to, or upon such non-appealing parties".

(31) On page 36, on line 11, between "factors" and ":", insert the following: "(provided, however, that such apportionment shall only adjust the rights of parties identified in Section 8(g)(2) among themselves, and shall not affect their liability to the State)".

(32) On page 40, on line 18, between "mail" and "by", insert the following: "return receipt requested".

(33) On page 43, on line 6, between "are" and "available", insert the word "timely" and strike "within a reasonable length of time".

(34) On page 43, on line 8, between "not" and "available", insert the word "timely".

(35) On page 45, on line 17, strike "reasonably" and substitute therefor the word "timely".

The amendment was adopted without objection.

Representative Dutton offered the following amendment to CSHB 2358:

Amend CSHB 2358 as follows: Add a new Subsection (12) on page 17 line 3 to read as follows:

“(12) The minimum standards set by the Department of Water Resources for on-site storage of hazardous waste must be at least the minimum standards set by the manufacturer of the chemical.”

The amendment was adopted without objection.

Representative Shaw offered the following amendment to **CSHB 2358**:

Amend **CSHB 2358**, SECTION 11, by adding the following sentence to Subsection 13(g)(4) on page 45, line 1 after the word “jurisdiction.”

The state may also seek punitive damages for the failure of any person otherwise liable to do voluntary cleanup after notification under subpart (1)(A) of this subsection. The punitive damages shall be up to one times the costs incurred as a result of the failure.

(O. Garcia now present)

Representative Schlueter moved to table the Shaw amendment.

A record vote was requested.

The motion to table prevailed by (Record 372): 92 Yeas, 47 Nays, 1 Present, not voting.

Yeas — Agnich; Armbrister; Barton; Berlanga; Blackwood; Blanton; Buchanan; Burnett; Cain; Campbell; Carter; Ceverha; Clark; Clemons; Collazo; Connelly; Cooper; Craddick; Criss; Delco; Dutton; Earley; Eckels; Edge; Emmett; Evans, C.; Finnell; Fox; Garcia, A.; Gavin; Gibson; Givens; Glossbrenner; Godwin; Granoff; Guerrero; Hammond; Harris, C.; Harris, J.; Heflin; Hilbert; Hill, A.; Hill, P.; Horn; Hudson, D.; Hury; Jackson; Johnson, C.; Johnson, S.; Jones; Kubiak; Kuempel; Leonard; Luna, G.; McDonald; McKenna; Melton; Messer; Millsap; Morales; Oliveira; Oliver; Patrick; Perez; Perry; Pierce; Robinson; Robnett; Saunders; Schlueter; Schoolcraft; Shea; Smith, A.; Smith, C.; Smith, R.; Smith, T.; Smithee; Staniswalis; Tallas; Taylor; Thompson, G. E.; Thompson, G. W.; Toomey; Valigura; Vowell; Waldrop; Watson; Whaley; Willis; Willy; Wright; Yost.

Nays — Adkisson; Carriker; Cavazos; Colbert; Danburg; Denton; Evans, L.; Garcia, O.; Gilley; Hackney; Haley; Harrison; Hightower; Hinojosa; Hollowell; Hudson, S.; Keller; Laney; Lewis, R.; Luna, A.; McKinney; McWilliams; Madla; Martinez; Moreno, A.; Moreno, P.; Patronella; Patterson; Pennington; Price; Ragsdale; Rangel; Richardson; Riley; Roberts; Rudd; Russell; Shaw; Short; Stiles; Sutton; Tejeda; Thompson, S.; Uher; Williamson; Wilson; Wolens.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Green; Wallace.

Absent — Arnold; Bush; Edwards; Geistweidt; Hall; Lee; Parker; Polumbo.

Representative Willy offered the following amendment to **CSHB 2358**:

Amend **CSHB 2358** as follows:

(1) On page 50, line 23, strike “Subsection (15)” and substitute “Subsections (15) and (16)”.

(2) On page 50, after line 27, insert the following:

(16). “Construct” means to actually construct and does not include steps preparatory to construction, such as obtaining financing for construction, delivering materials to the construction site, or clearing the construction site.

(3) On page 51, between lines 6 and 7, insert a new Section 15 to read as follows:

SECTION 15. Subchapter B, Chapter 27, Water Code, is amended by adding Section 27.021 to read as follows:

Sec. 27.021. INJECTION WELL CONSTRUCTION RESTRICTED. A person may not construct a new injection well for disposal of hazardous waste generated by persons other than the owner or operator of the injection well on land in a flood plain subject to a one percent or greater chance of flooding a year.

(4) Renumber current Section 15 and subsequent sections appropriately.

Representative Schlueter moved to table the Willy amendment.

A record vote was requested.

The motion to table prevailed by (Record 373): 79 Yeas, 48 Nays, 1 Present, not voting.

Yeas — Agnich; Armbrister; Barton; Blackwood; Blanton; Buchanan; Burnett; Cain; Carriker; Carter; Clemons; Colbert; Connelly; Cooper; Craddick; Criss; Danburg; Delco; Earley; Eckels; Edge; Emmett; Finnell; Fox; Garcia, A.; Garcia, O.; Gavin; Gibson; Givens; Glossbrenner; Godwin; Granoff; Guerrero; Harrison; Hilbert; Hill, A.; Hinojosa; Horn; Hudson, D.; Hury; Jackson; Johnson, C.; Johnson, S.; Jones; Kuempel; Leonard; McDonald; Melton; Messer; Morales; Moreno, P.; Oliver; Parker; Patrick; Perez; Perry; Pierce; Rangel; Robinson; Saunders; Schlueter; Schoolcraft; Shea; Smith, A.; Smith, C.; Smith, R.; Sutton; Taylor; Thompson, G. W.; Toomey; Valigura; Vowell; Waldrop; Watson; Whaley; Willis; Wolens; Wright; Yost.

Nays — Adkisson; Campbell; Cavazos; Ceverha; Clark; Collazo; Denton; Evans, C.; Gilley; Hackney; Haley; Harris, C.; Harris, J.; Heflin; Hightower; Hollowell; Hudson, S.; Keller; Kubiak; Laney; Lewis, R.; Luna, A.; McKenna; McKinney; Madla; Martinez; Millsap; Moreno, A.; Oliveira; Patronella; Patterson; Pennington; Price; Richardson; Riley; Roberts; Rudd; Russell; Shaw; Short; Smithee; Staniswalis; Stiles; Tallas; Tejada; Uher; Williamson; Willy.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Green; Wallace.

Absent — Arnold; Berlanga; Bush; Dutton; Edwards; Evans, L.; Geistweidt; Hall; Hammond; Hill, P.; Lee; Luna, G.; McWilliams; Polumbo; Ragsdale; Robnett; Smith, T.; Thompson, G. E.; Thompson, S.; Wilson.

Representative Stiles offered the following amendment to CSHB 2358:

Between lines 9 and 10, page 10 insert definition (36) to read as follows:

"Commercial hazardous waste management unit" means a landfill, surface impoundment, waste treatment facility, waste pile or storage or processing facility used to manage hazardous waste for a fee.

Representative Schlueter moved to table the Stiles amendment.

A record vote was requested.

The motion to table prevailed by (Record 374): 88 Yeas, 34 Nays, 1 Present, not voting.

Yeas — Agnich; Armbrister; Barton; Blackwood; Blanton; Buchanan; Cain; Carter; Clemons; Colbert; Connelly; Cooper; Craddick; Criss; Danburg; Delco; Denton; Earley; Eckels; Edge; Emmett; Finnell; Fox; Garcia, A.; Garcia, O.; Gavin; Geistweidt; Gibson; Glossbrenner; Godwin; Granoff; Guerrero; Haley; Hammond; Harris, C.; Harrison; Heflin; Hilbert; Hill, A.; Hinojosa; Hollowell; Horn; Hudson, D.; Hudson, S.; Hury; Johnson, C.; Johnson, S.; Jones; Kuempel;

Leonard; McDonald; McKenna; McKinney; Messer; Morales; Oliveira; Oliver; Parker; Patrick; Patronella; Perry; Pierce; Rangel; Richardson; Roberts; Robinson; Saunders; Schlueter; Schoolcraft; Shea; Smith, A.; Smith, C.; Smith, R.; Smith, T.; Smithee; Tallas; Taylor; Thompson, G. E.; Thompson, G. W.; Toomey; Valigura; Vowell; Waldrop; Watson; Whaley; Willis; Wright; Yost.

Nays — Adkisson; Burnett; Carriker; Cavazos; Ceverha; Clark; Collazo; Evans, C.; Hackney; Harris, J.; Hightower; Kubiak; Lancy; Lewis, R.; Luna, A.; Madla; Melton; Millsap; Moreno, A.; Patterson; Pennington; Perez; Price; Riley; Rudd; Russell; Shaw; Short; Staniswalis; Stiles; Tejeda; Uher; Williamson; Willy.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Green; Wallace.

Absent — Arnold; Berlanga; Bush; Campbell; Dutton; Edwards; Evans, L.; Gilley; Givens; Hall; Hill, P.; Jackson; Keller; Lee; Luna, G.; McWilliams; Martinez; Moreno, P.; Polumbo; Ragsdale; Robnett; Sutton; Thompson, S.; Wilson; Wolens.

Representative Shaw offered the following amendment to **CSHB 2358**:

Amend **CSHB 2358** by adding the following new SECTION 16 and renumbering the existing SECTION 16 through 18.

SECTION 16. Section 8(a)(2), Solid Waste Disposal Act (Article 4477-7, Vernon's Texas Civil Statutes), is amended to read as follows:

(2) Any person who violates any provision of this Act or of any rule, permit, license, or other order of the department or the department of water resources, or a county or a political subdivision exercising the authority granted in Section 6 of this Act within whose jurisdiction the violation occurs, which is not a requirement applicable to hazardous waste, is subject to a civil penalty of not less than \$100.00 nor more than \$2,000.00 for each act of violation and for each day of violation, as the court may deem proper, to be recovered in the manner provided in this Section 8. Any person who violates any requirement applicable to hazardous waste shall be subject to a civil penalty of not less than \$200.00 [~~\$100.00~~] nor more \$25,000.00 for each act of violation and for each day of violation, as the court may deem proper, to be recovered in the manner provided in this Section 8(a). Each day that a release of waste is not cleaned up and presents an imminent and substantial endangerment to the public health and safety or the environment shall constitute a day of violation.

Representative Schlueter moved to table the Shaw amendment.

A record vote was requested.

The motion to table prevailed by (Record 375): 93 Yeas, 33 Nays, 2 Present, not voting.

Yeas — Agnich; Armbrister; Barton; Blackwood; Blanton; Buchanan; Burnett; Cain; Campbell; Carriker; Carter; Ceverha; Clark; Connelly; Cooper; Craddick; Criss; Danburg; Delco; Earley; Eckels; Edge; Emmett; Evans, C.; Finnell; Fox; Garcia, A.; Gavin; Gibson; Givens; Godwin; Granoff; Haley; Harris, C.; Harrison; Heflin; Hilbert; Hill, A.; Hill, P.; Hinojosa; Horn; Hudson, D.; Hudson, S.; Johnson, C.; Johnson, S.; Jones; Keller; Kubiak; Kuempel; Leonard; McDonald; McKenna; Melton; Messer; Millsap; Morales; Oliveira; Oliver; Parker; Patrick; Patronella; Perez; Pierce; Richardson; Roberts; Robinson; Saunders; Schlueter; Schoolcraft; Shea; Short; Smith, A.; Smith, C.; Smith, R.; Smith, T.; Smithee; Staniswalis; Tallas; Taylor; Thompson, G. E.; Thompson, G. W.; Thompson, S.; Toomey; Valigura; Vowell; Waldrop; Watson; Whaley; Willis; Willy; Wolens; Wright; Yost.

Nays — Adkisson; Cavazos; Clemons; Colbert; Collazo; Denton; Garcia, O.; Gilley; Glossbrenner; Guerrero; Hackney; Hightower; Hollowell; Hury; Laney; Lewis, R.; Luna, A.; McKinney; Madla; Moreno, A.; Moreno, P.; Patterson; Pennington; Perry; Price; Rangel; Rudd; Russell; Stiles; Sutton; Tejeda; Uher; Williamson.

Present, not voting — Mr. Speaker(C); Harris, J.

Absent, Excused — Green; Wallace.

Absent — Arnold; Berlanga; Bush; Dutton; Edwards; Evans, L.; Geistweidt; Hall; Hammond; Jackson; Lee; Luna, G.; McWilliams; Martinez; Polumbo; Ragsdale; Riley; Robnett; Shaw; Wilson.

Representative Stiles offered the following amendment to **CSHB 2358**:

Amend **CSHB 2358** as follows:

(1) On page 17, line 3, between "4," and "6", insert "5,".

(2) On page 20, between lines 3 and 4, insert the following:

(5) Before a permit is issued, amended, extended, or renewed for a commercial solid waste facility for disposal of hazardous waste, the state agency to which the application is submitted shall [may] require the permittee to execute a bond or give other financial assurance conditioned on the permittee's satisfactorily operating and closing the solid waste facility. The bond must be executed to cover a period of at least 50 years. A state agency may condition issuance, amendment, extension, or renewal of a permit for a solid waste facility other than a commercial solid waste facility for disposal of hazardous waste on the permittee's executing a bond or giving other financial assurance conditioned on the permittee's satisfactorily operating and closing the solid waste facility. The state agency to which the application is submitted shall require an assurance of financial responsibility as may be necessary or desirable consistent with the degree and duration of risks associated with the processing, storage, or disposal of specified solid waste. Financial requirements established by the state agency shall at a minimum be consistent with the federal requirements established under the federal Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, 42 U.S.C., 6901 et seq., as amended.

Representative Schlueter moved to table the Stiles amendment.

A record vote was requested.

The motion to table prevailed by (Record 376): 85 Yeas, 45 Nays, 1 Present, not voting.

Yeas — Agnich; Armbrister; Barton; Berlanga; Blackwood; Blanton; Buchanan; Burnett; Cain; Carter; Connelly; Cooper; Craddick; Criss; Danburg; Delco; Earley; Eckels; Emmett; Finnell; Fox; Garcia, A.; Gavin; Gibson; Givens; Glossbrenner; Godwin; Granoff; Guerrero; Haley; Hall; Hammond; Harris, C.; Harrison; Heflin; Hilbert; Hill, A.; Hill, P.; Hinojosa; Hollowell; Horn; Hudson, D.; Hury; Johnson, C.; Johnson, S.; Jones; Kuempel; Leonard; McDonald; McKenna; McKinney; Messer; Millsap; Morales; Oliver; Parker; Patrick; Perry; Pierce; Richardson; Robinson; Robnett; Saunders; Schlueter; Schoolcraft; Shea; Smith, A.; Smith, C.; Smith, R.; Smith, T.; Smithee; Tallas; Taylor; Thompson, G. E.; Thompson, G. W.; Thompson, S.; Toomey; Valigura; Vowell; Watson; Whaley; Willis; Wolens; Wright; Yost.

Nays — Adkisson; Arnold; Campbell; Carriker; Cavazos; Ceverha; Clark; Clemons; Colbert; Collazo; Denton; Evans, C.; Garcia, O.; Gilley; Hackney; Harris, J.; Hightower; Hudson, S.; Keller; Kubiak; Laney; Lewis, R.; Luna, A.; Madla; Melton; Moreno, A.; Patronella; Patterson; Pennington; Price; Ragsdale; Rangel; Riley; Roberts; Rudd; Russell; Shaw; Short; Staniswalis; Stiles; Sutton; Tejada; Uher; Williamson; Willy.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Green; Wallace.

Absent — Bush; Dutton; Edge; Edwards; Evans, L.; Geistweidt; Jackson; Lee; Luna, G.; McWilliams; Martinez; Moreno, P.; Oliveira; Perez; Polumbo; Waldrop; Wilson.

Representative Shaw offered the following amendment to **CSHB 2358**:

Amend **CSHB 2358** by adding the following SECTION 16 and renumbering the existing SECTIONS 16 through 18.

SECTION 16. Section 8, Solid Waste Disposal Act (Article 4477-7, Vernon's Texas Civil Statutes), is amended by adding subsection (h) to read as follows:

(h) Any person who is determined by a court to have violated or be in violation of any provision of this Act or any rule, permit, license or order of a state agency which is applicable to hazardous wastes may not contract with any agency of the state for services or products, if such services or products involve hazardous waste management, for two years after the effective date of the court's determination or the last day for which the violation occurs, whichever date is later.

Representative Schlueter moved to table the Shaw amendment.

A record vote was requested.

The motion to table prevailed by (Record 377): 89 Yeas, 38 Nays, 1 Present, not voting.

Yeas — Agnich; Armbrister; Barton; Blackwood; Blanton; Buchanan; Burnett; Cain; Campbell; Carriker; Carter; Clark; Clemons; Colbert; Connelly; Cooper; Craddock; Danburg; Delco; Earley; Eckels; Edge; Emmett; Evans, C.; Finnell; Fox; Gavin; Geistweidt; Gibson; Givens; Glossbrenner; Godwin; Granoff; Guerrero; Haley; Harris, C.; Harris, J.; Heflin; Hilbert; Hill, A.; Hill, P.; Hinojosa; Horn; Hudson, D.; Hury; Johnson, C.; Johnson, S.; Jones; Kuempel; Leonard; McKenna; Melton; Messer; Millsap; Morales; Oliveira; Parker; Patrick; Patronella; Pennington; Perry; Pierce; Richardson; Roberts; Robnett; Rudd; Saunders; Schlueter; Schoolcraft; Shea; Smith, A.; Smith, C.; Smith, R.; Smith, T.; Smithee; Tallas; Taylor; Thompson, G. E.; Thompson, S.; Toomey; Valigura; Waldrop; Watson; Whaley; Willis; Willy; Wolens; Wright; Yost.

Nays — Adkisson; Arnold; Cavazos; Collazo; Denton; Garcia, A.; Garcia, O.; Gilley; Hackney; Harrison; Hightower; Hollowell; Hudson, S.; Keller; Kubiak; Laney; Lewis, R.; Luna, A.; McDonald; McKinney; Madla; Moreno, A.; Moreno, P.; Oliver; Patterson; Price; Ragsdale; Rangel; Riley; Russell; Shaw; Short; Staniswalis; Stiles; Tejada; Thompson, G. W.; Uher; Williamson.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Green; Wallace.

Absent — Berlanga; Bush; Ceverha; Criss; Dutton; Edwards; Evans, L.; Hall; Hammond; Jackson; Lee; Luna, G.; McWilliams; Martinez; Perez; Polumbo; Robinson; Sutton; Vowell; Wilson.

Representative Shaw offered the following amendment to **CSHB 2358**:

Amend **CSHB 2358**, SECTION 3, by deleting subsection 4(c)(10) on page ____ and substituting a new subsection 4(c)(10) to read as follows:

(10) prohibit after January 1, 1988 the issuance of a permit for a new below grade hazardous waste landfill or for a below grade areal expansion of an existing hazardous waste landfill, or the renewal of such a permit unless the state agency has by rule determined that hazardous wastes, which are to be disposed of in such landfills, will not create significant risks to human health or the environment for as long as the waste remains hazardous.

Representative Schlueter moved to table the Shaw amendment.

A record vote was requested.

The motion to table prevailed by (Record 378): 68 Yeas, 64 Nays, 1 Present, not voting.

Yeas — Agnich; Armbrister; Arnold; Barton; Blanton; Burnett; Carter; Ceverha; Colbert; Connelly; Craddick; Criss; Delco; Edge; Emmett; Evans, C.; Finnell; Fox; Gavin; Geistweidt; Gibson; Godwin; Granoff; Harris, C.; Hilbert; Hill, A.; Hill, P.; Hinojosa; Horn; Hudson, D.; Johnson, C.; Johnson, S.; Kuempel; Leonard; McKenna; McWilliams; Messer; Millsap; Morales; Oliveira; Patrick; Patronella; Pennington; Perry; Pierce; Robinson; Robnett; Saunders; Schlueter; Schoolcraft; Shea; Smith, A.; Smith, R.; Smith, T.; Smithee; Staniswalis; Tallas; Taylor; Thompson, G. E.; Thompson, S.; Toomey; Valigura; Vowell; Waldrop; Watson; Willy; Wright; Yost.

Nays — Adkisson; Berlanga; Blackwood; Buchanan; Campbell; Carriker; Cavazos; Clark; Clemons; Collazo; Cooper; Danburg; Denton; Earley; Eckels; Garcia, A.; Garcia, O.; Gilley; Givens; Glossbrenner; Guerrero; Hackney; Haley; Hall; Harris, J.; Harrison; Heflin; Hightower; Hollowell; Hudson, S.; Jones; Keller; Kubiak; Laney; Lee; Lewis, R.; Luna, A.; McDonald; McKinney; Madla; Melton; Moreno, P.; Oliver; Patterson; Perez; Price; Ragsdale; Rangel; Richardson; Riley; Roberts; Russell; Shaw; Short; Smith, C.; Stiles; Sutton; Tejeda; Thompson, G. W.; Uher; Whaley; Williamson; Wilson; Wolens.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Green; Wallace.

Absent — Bush; Cain; Dutton; Edwards; Evans, L.; Hammond; Hury; Jackson; Luna, G.; Martinez; Moreno, A.; Parker; Polumbo; Rudd; Willis.

Representative Stiles offered the following amendment to **CSHB 2358**:

Add a new paragraph (13) to page 16, between lines 25 and 26, to read as follows:

(13) Prohibit the issuance of a permit for a new hazardous waste management unit if the landfill is in a flood plain of a perennial stream subject to not less than one percent chance of flooding in any year, delineated on a flood map as zone A1-99, VQ, or V1-30; and

This amendment applies only to units that receive hazardous waste for a fee.

Representative Schlueter moved to table the Stiles amendment.

A record vote was requested.

The motion to table was lost by (Record 379): 46 Yeas, 89 Nays, 1 Present, not voting.

Yeas — Agnich; Armbrister; Blanton; Buchanan; Cain; Carter; Connelly; Craddick; Earley; Finnell; Fox; Garcia, A.; Gavin; Geistweidt; Gibson; Glossbrenner; Godwin; Guerrero; Hammond; Harris, C.; Heflin; Hilbert; Hill, A.; Horn; Hudson, D.; Jackson; Jones; Leonard; McKenna; Messer; Perry; Pierce; Robinson; Saunders; Schlueter; Shea; Smith, C.; Smith, R.; Tallas; Taylor; Thompson, G. E.; Toomey; Vowell; Waldrop; Watson; Whaley.

Nays — Adkisson; Arnold; Barton; Berlanga; Blackwood; Burnett; Bush; Campbell; Carriker; Cavazos; Ceverha; Clark; Clemons; Colbert; Collazo; Criss; Danburg; Delco; Denton; Dutton; Edge; Edwards; Emmett; Evans, C.; Evans, L.; Garcia, O.; Gilley; Givens; Granoff; Hackney; Haley; Hall; Harris, J.; Hightower; Hinojosa; Hollowell; Hudson, S.; Hury; Johnson, C.; Keller; Kubiak; Kuempel; Laney; Lee; Lewis, R.; Luna, A.; Luna, G.; McKinney; Madla; Martinez; Melton; Millsap; Morales; Moreno, A.; Moreno, P.; Oliver; Patronella; Patterson; Pennington; Perez; Price; Ragsdale; Rangel; Richardson; Riley; Roberts; Robnett; Rudd; Russell; Schoolcraft; Shaw; Short; Smith, A.; Smith, T.; Smithee; Staniswalis; Stiles; Sutton; Tejeda; Thompson, S.; Uher; Valigura; Williamson; Willis; Willy; Wilson; Wolens; Wright; Yost.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Green; Wallace.

Absent — Cooper; Eckels; Harrison; Hill, P.; Johnson, S.; McDonald; McWilliams; Oliveira; Parker; Patrick; Polumbo; Thompson, G. W.

A record vote was requested.

The Stiles amendment was adopted by (Record 380): 96 Yeas, 46 Nays, 1 Present, not voting.

Yeas — Arnold; Barton; Berlanga; Blackwood; Burnett; Campbell; Carriker; Cavazos; Ceverha; Clark; Clemons; Colbert; Collazo; Connelly; Criss; Danburg; Denton; Edge; Emmett; Evans, L.; Finnell; Garcia, A.; Garcia, O.; Gibson; Gilley; Givens; Glossbrenner; Granoff; Hackney; Haley; Hall; Harris, C.; Harris, J.; Harrison; Hightower; Hilbert; Hill, A.; Hinojosa; Hollowell; Hudson, S.; Hury; Johnson, S.; Keller; Kubiak; Kuempel; Laney; Lee; Lewis, R.; Luna, A.; McDonald; McKenna; McKinney; McWilliams; Madla; Martinez; Millsap; Morales; Moreno, A.; Moreno, P.; Oliveira; Oliver; Patrick; Patronella; Patterson; Pennington; Pierce; Price; Ragsdale; Rangel; Richardson; Riley; Roberts; Rudd; Russell; Schoolcraft; Shaw; Short; Smith, T.; Smithee; Staniswalis; Stiles; Sutton; Tallas; Tejeda; Thompson, G. W.; Thompson, S.; Toomey; Uher; Valigura; Waldrop; Williamson; Willy; Wilson; Wolens; Wright; Yost.

Nays — Adkisson; Agnich; Armbrister; Blanton; Buchanan; Bush; Cain; Carter; Cooper; Craddick; Delco; Earley; Evans, C.; Fox; Gavin; Geistweidt; Godwin; Guerrero; Hammond; Heflin; Hill, P.; Horn; Hudson, D.; Jackson; Johnson, C.; Jones; Leonard; Melton; Messer; Parker; Perez; Perry; Robinson; Robnett; Saunders; Schlueter; Shea; Smith, A.; Smith, C.; Smith, R.; Taylor; Thompson, G. E.; Vowell; Watson; Whaley; Willis.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Green; Wallace.

Absent — Dutton; Eckels; Edwards; Luna, G.; Polumbo.

MESSAGE FROM THE SENATE

Austin, Texas, May 15, 1985

The Honorable Speaker of the House of Representatives
House Chamber

The Honorable
Mr. Speaker:

I am directed by the Senate to inform the House that the Senate has passed the following:

CSHB 460 by C. Evans, et al., relating to the improvement of economy and efficiency in state government. (amended)

HB 809 by Jackson, et al., relating to the development of international commerce and to the creation of the Texas World Trade Council. (amended)

CSHB 1132 by Berlanga, relating to the sale and consumption of alcoholic beverages on certain boats and trains. (amended)

CSHB 1433 by Lee, relating to certain insurance company insolvencies.

CSHB 1584 by C. Evans, relating to the authorization and regulation of single purpose health care plans as health maintenance organizations.

HB 1953 by Shaw, relating to the regulation of dealers and manufacturers of certain motor vehicles.

HB 2119 by Glossbrenner, et al., relating to rental-purchase agreements.

I am directed by the Senate to inform the House that the Senate has concurred in House Amendments to **SB 670** by: viva voce vote.

Respectfully,
Betty King
Secretary of the Senate

CSHB 2358 - (consideration continued)

Representative Uher offered the following amendment to **CSHB 2358**:

Add a new subsection on page 52, after line 19 and before line 20, the following:

(f) The Department of Water Resources shall prohibit issuance of a permit for a hazardous waste injection well into a salt dome that geologically is faulted in the immediate proximity of the proposed injection well bore and in an area where sulphur mining and oil and gas wells have been operated or drilled.

The amendment was adopted without objection.

Representative Shaw offered the following amendment to **CSHB 2358**:

Amend **CSHB 2358**, 1st printing, in the following manner:

(1) Amend **CSHB 2358**, SECTION 8, page 29 by adding a new Subsection 7(f) to read as follows:

(f) The annual inspection report shall be submitted to the governor, lieutenant governor, and speaker of the house. The state agencies shall provide notice of the availability of the report by publication of notice in the Texas Register.

(2) Amend **CSHB 2358** by adding the following SECTION 10 and renumbering the existing SECTIONS 11 through 19.

SECTION 10. Section 8, Solid Waster Disposal Act (Article 4477-7, Vernon's Texas Civil Statutes), is amended by adding Subsection (h) to read as follows:

(h) A state agency contracting for services or products shall take into consideration whether the person proposing to contract with the state has been adjudicated during the preceding three year period to have committed substantive,

non-clerical violations which have resulted in an actual release of hazardous waste that presented an imminent and substantial endangerment to the public health and safety or the environment.

(3) Amend **CSHB 2358**, SECTION 8, page 29, line 7 by adding the following:

(e) The report of each state agency shall identify those facilities having demonstrated an exemplary record of compliance over the preceding three year period and those facilities which have been adjudicated during the preceding three year period to have committed substantive, non-clerical violations which have resulted in an actual release of hazardous waste that presented an imminent and substantial endangerment to the public health and safety or the environment.

(4) Amend **CSHB 2358**, SECTION 3, by adding a new Subsection 4(c)(9) on page 16 and renumbering subsequent subsections accordingly:

(9) require applicants for a new hazardous waste landfill filed after January 1, 1986, to provide an engineering report evaluating the benefits, if any, associated with the construction of the landfill above existing grade at the proposed site, the costs associated with the above grade construction, and the potential adverse effects, if any, which would be associated with the above grade construction;

The amendment was adopted without objection.

A record vote was requested.

CSHB 2358, as amended, was passed to engrossment by (Record 381): 140 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Adkisson; Agnich; Armbrister; Arnold; Barton; Berlanga; Blackwood; Buchanan; Burnett; Bush; Cain; Campbell; Carriker; Carter; Cavazos; Clark; Clemons; Colbert; Collazo; Connelly; Cooper; Craddick; Criss; Danburg; Delco; Denton; Dutton; Earley; Eckels; Edge; Emmett; Evans, L.; Finnell; Fox; Garcia, A.; Garcia, O.; Gavin; Geistweidt; Gibson; Gilley; Givens; Glossbrenner; Godwin; Granoff; Guerrero; Hackney; Haley; Hall; Hammond; Harris, C.; Harris, J.; Harrison; Heflin; Hightower; Hilbert; Hill, A.; Hill, P.; Hinojosa; Hollowell; Horn; Hudson, D.; Hudson, S.; Hury; Jackson; Johnson, C.; Johnson, S.; Jones; Keller; Kubiak; Kuempel; Laney; Lee; Lewis, R.; Luna, A.; Luna, G.; McDonald; McKenna; McKinney; McWilliams; Madla; Martinez; Melton; Messer; Morales; Moreno, A.; Moreno, P.; Oliveira; Oliver; Parker; Patrick; Patronella; Patterson; Pennington; Perez; Perry; Pierce; Price; Ragsdale; Rangel; Richardson; Riley; Roberts; Robinson; Robnett; Rudd; Russell; Saunders; Schlueter; Schoolcraft; Shaw; Shea; Short; Smith, A.; Smith, C.; Smith, R.; Smith, T.; Smithee; Staniswalis; Stiles; Sutton; Tallas; Taylor; Tejeda; Thompson, G. E.; Thompson, G. W.; Thompson, S.; Toomey; Uher; Valigura; Vowell; Waldrop; Watson; Whaley; Williamson; Willis; Willy; Wilson; Wolens; Wright; Yost.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Green; Wallace.

Absent — Blanton; Ceverha; Edwards; Evans, C.; Leonard; Millsap; Pumbo.

HB 2358 ON THIRD READING

Representative Schlueter moved that the constitutional rule requiring bills to be read on three several days be suspended and that **HB 2358** be placed on its third reading and final passage.

A record vote was requested.

The motion prevailed by (Record 382): 132 Yeas, 10 Nays, 2 Present, not voting.

Yeas — Adkisson; Armbrister; Arnold; Barton; Berlanga; Blackwood; Blanton; Buchanan; Burnett; Bush; Cain; Campbell; Carriker; Carter; Cavazos; Ceverha; Clark; Clemons; Colbert; Collazo; Connelly; Cooper; Craddick; Criss; Danburg; Delco; Denton; Dutton; Earley; Eckels; Edge; Emmett; Evans, C.; Evans, L.; Finnell; Garcia, A.; Garcia, O.; Gavin; Geistweidt; Gibson; Gilley; Givens; Glossbrenner; Godwin; Granoff; Guerrero; Hackney; Haley; Hall; Hammond; Harris, C.; Harris, J.; Harrison; Heflin; Hightower; Hilbert; Hill, A.; Hinojosa; Horn; Hudson, D.; Hudson, S.; Hury; Johnson, C.; Jones; Keller; Kubiak; Kuempel; Laney; Lee; Leonard; Lewis, R.; Luna, A.; Luna, G.; McDonald; McKenna; McKinney; McWilliams; Madla; Melton; Messer; Millsap; Morales; Moreno, A.; Moreno, P.; Oliver; Parker; Patrick; Patterson; Pennington; Perez; Perry; Pierce; Price; Ragsdale; Rangel; Richardson; Riley; Roberts; Robinson; Robnett; Rudd; Russell; Saunders; Schlueter; Schoolcraft; Shaw; Shea; Short; Smith, A.; Smith, C.; Smith, R.; Smith, T.; Smithee; Staniswalis; Stiles; Tallas; Taylor; Tejeda; Thompson, G. E.; Thompson, G. W.; Toomey; Uher; Valigura; Vowell; Waldrop; Watson; Whaley; Williamson; Willis; Willy; Wright; Yost.

Nays — Agnich; Fox; Hill, P.; Hollowell; Jackson; Oliveira; Patronella; Thompson, S.; Wilson; Wolens.

Present, not voting — Mr. Speaker(C); Martinez.

Absent, Excused — Green; Wallace.

Absent — Edwards; Johnson, S.; Polumbo; Sutton.

The speaker then laid **HB 2358** before the house on third reading and final passage.

A record vote was requested.

The bill was read third time and was passed by (Record 383): 144 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Adkisson; Agnich; Armbrister; Arnold; Barton; Berlanga; Blackwood; Blanton; Buchanan; Burnett; Bush; Cain; Campbell; Carriker; Carter; Cavazos; Ceverha; Clark; Clemons; Colbert; Collazo; Connelly; Cooper; Craddick; Criss; Danburg; Delco; Denton; Dutton; Earley; Eckels; Edge; Emmett; Evans, C.; Evans, L.; Finnell; Fox; Garcia, A.; Garcia, O.; Gavin; Geistweidt; Gibson; Gilley; Givens; Glossbrenner; Godwin; Granoff; Guerrero; Hackney; Haley; Hall; Hammond; Harris, C.; Harris, J.; Harrison; Heflin; Hightower; Hilbert; Hill, A.; Hill, P.; Hinojosa; Hollowell; Horn; Hudson, D.; Hudson, S.; Hury; Jackson; Johnson, C.; Johnson, S.; Jones; Keller; Kubiak; Kuempel; Laney; Lee; Leonard; Lewis, R.; Luna, A.; Luna, G.; McDonald; McKenna; McKinney; McWilliams; Madla; Melton; Messer; Millsap; Morales; Moreno, A.; Moreno, P.; Oliveira; Oliver; Parker; Patrick; Patronella; Patterson; Pennington; Perez; Perry; Pierce; Price; Ragsdale; Rangel; Richardson; Riley; Roberts; Robinson; Robnett; Rudd; Russell; Saunders; Schlueter; Schoolcraft; Shaw; Shea; Short; Smith, A.; Smith, C.; Smith, R.; Smith, T.; Smithee; Staniswalis; Stiles; Sutton; Tallas; Taylor; Tejeda; Thompson, G. E.; Thompson, G. W.; Thompson, S.; Toomey; Uher; Valigura; Vowell; Waldrop; Watson; Whaley; Williamson; Willis; Willy; Wilson; Wolens; Wright; Yost.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Green; Wallace.

Absent — Edwards; Martinez; Polumbo.

HCR 131 - RULES SUSPENDED

Representative Leonard moved to suspend the 5-day posting rule to allow the Committee on Judicial Affairs to consider **HCR 131**.

The motion prevailed without objection.

HCR 219 - RULES SUSPENDED

Representative Delco moved to suspend the 5-day posting rule to allow the Committee on Judicial Affairs to consider **HCR 219**.

The motion prevailed without objection.

HR 445 - ADOPTED

Representative Patronella moved that all necessary rules be suspended to take up and consider at this time, **HR 445**.

The motion prevailed without objection.

The speaker laid before the house the following resolution:

By Patronella:

HR 445, Wishing the Honorable Irma Rangel a happy birthday.

The resolution was read and was adopted without objection.

On motion of Representative Sutton, the names of all the members of the house were added to **HR 445** as signers thereof.

SJR 29 - RULES SUSPENDED

Representative Wright moved to suspend the 5-day posting rule to allow the Committee on Public Health to consider **SJR 29**.

The motion prevailed without objection.

SCR 84 - RULES SUSPENDED

Representative Guerrero moved to suspend the 5-day posting rule to allow the Committee on Judicial Affairs to consider **SCR 84**.

The motion prevailed without objection.

HB 1973 - RULES SUSPENDED

Representative Guerrero moved to suspend the 5-day posting rule to allow the Committee on State Affairs to consider **HB 1973**.

The motion prevailed without objection.

HB 1975 AND HB 1973 - RULES SUSPENDED

Representative Guerrero moved to suspend the 48-hour subcommittee report rule to allow the Committee on State Affairs to consider **HB 1975** and **HB 1973**.

The motion prevailed without objection.

RECESS

Representative Watson moved that the house recess until 2 p.m. today.

The motion prevailed without objection.

The house accordingly, at 12:18 p.m., recessed until 2 p.m. today.

AFTERNOON SESSION

The house met at 2 p.m. and was called to order by the speaker.

RESOLUTIONS REFERRED TO COMMITTEES

The following resolutions were laid before the house and referred to committees:

By Connelly:

HCR 220, Commending Paul Broman, James Delahanty, Stephen Lewis, Jeffrey Namendorf, Adam Schmitt, and Howard Tsoi.

To Committee on Rules and Resolutions.

By Hall:

HCR 221, Commending William Charles English.

To Committee on Rules and Resolutions.

By Staniswalis:

HCR 222, Directing the State Highway and Public Transportation Commission not to allow the placement of the designation "Wildflower State" on Texas license plates.

To Committee on Transportation.

By Ceverha:

HCR 223, Honoring the Richardson L. V. Berkner Academic Decathlon team.

To Committee on Rules and Resolutions.

By Schoolcraft:

HCR 224, Designating the week of Monday, July 1, through Sunday, July 7, 1985, as Patriotism Week in Texas.

To Committee on Rules and Resolutions.

By S. Hudson:

HR 436, Recognizing Mrs. Maggie Lee Cumby of Dallas.

To Committee on Rules and Resolutions.

By Tejeda:

HR 437, Commending Ronald S. Geyer.

To Committee on Rules and Resolutions.

By S. Hudson:

HR 438, Recognizing Mrs. Odessa Bowie of Dallas.

To Committee on Rules and Resolutions.

By Jones:

HR 439, Congratulating Dorothy Metz Gaffney.

To Committee on Rules and Resolutions.

By Givens:

HR 440, Extending birthday wishes to the Honorable Jerry Yost.

To Committee on Rules and Resolutions.

By Givens:

HR 441, Honoring Justice of the Peace McKinley Shephard.

To Committee on Rules and Resolutions.

By L. Evans:

HR 442, In memory of Brenda Joyce Sers.
To Committee on Rules and Resolutions.

By Ceverha:

HR 443, Paying tribute to house members who are veterans of military service.
To Committee on Rules and Resolutions.

SCR 165, Inviting Elie Wiesel to address a joint session of the 69th Legislature on May 22, 1985.

To Committee on House Administration.

HOUSE BILLS ON FIRST READING

The following house bills were today laid before the house, read first time and referred to committees:

By Berlanga:

HB 2518, A bill to be entitled An Act relating to the lease and sublease of space by the State Purchasing and General Services Commission.
To Committee on State Affairs.

By Saunders:

HB 2519, A bill to be entitled An Act relating to the creation, administration, powers, duties, operation, and financing of the Bastrop County Reclamation, Road, and Utility District No. 1.

To Committee on Natural Resources.

SENATE BILLS ON FIRST READING

The following senate bills were today laid before the house, read first time and referred to committees:

SB 624 to Committee on Higher Education.

SB 1099 to Committee on Judiciary.

SB 1307 to Committee on Government Organization.

SB 1367 to Committee on Public Health.

SB 1378 to Committee on County Affairs.

HB 1261 - POSTPONED

Representative Messer moved that consideration of **HB 1261** be postponed until Thursday, May 16, at 10 a.m.

The motion prevailed without objection.

MESSAGE FROM THE SENATE

Austin, Texas, May 15, 1985

The Honorable Speaker of the House of Representatives
House Chamber

The Honorable
Mr. Speaker:

I am directed by the Senate to inform the House that the Senate has passed the following:

SB 330 by Brooks, relating to requirements for certain group policies of insurance to include benefits for home health service and to certain permissible provisions.

SB 1435 by Jones, relating to the issuance of bonds for additional building projects by the Texas Public Building Authority and handling of funds and bond proceeds.

Respectfully,
Betty King
Secretary of the Senate

SB 464 ON SECOND READING
(C. Evans - House Sponsor)

The speaker laid before the house on its second reading and passage to third reading, the complete committee substitute for **SB 464**.

CSSB 464, A bill to be entitled An Act relating to the continuation, composition, powers, and duties of the Parks and Wildlife Department; to funds used for parks and wildlife purposes; to the enforcement of laws and regulations relating to activities permitted by licenses or permits issued by the Parks and Wildlife Department; to state recovery for certain violations of the Parks and Wildlife Code; to authorizing the Parks and Wildlife Department to recover damages for certain violations of the Water Code; providing penalty schedules for the Parks and Wildlife Code; and providing penalties.

CSSB 464 was read second time and was passed to third reading. (Uher, Geistweidt, Clark, Robnett, Schlueter, Stiles, Hightower, and Fox recorded voting no.)

HJR 72 ON SECOND READING

The speaker laid before the house on its second reading and passage to engrossment, the complete committee substitute for **HJR 72**.

CSHJR 72

A JOINT RESOLUTION

proposing a constitutional amendment to require approval by the Legislative Budget Board and the office of the governor of certain state agencies' use of appropriated funds for private consulting services and professional services.

BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Article XVI of the Texas Constitution is amended by adding Section 69 to read as follows:

Sec. 69. Before a state agency in the executive branch of state government may spend appropriated funds for the use of private consulting services or professional services the Legislative Budget Board and the office of the governor must approve the state agency's request for the use of professional services or a private consultant. The state agency shall provide the Legislative Budget Board and the office of the governor with information relating to the need for the professional services or private consulting services. The Legislative Budget Board and the governor's office shall establish such rules and procedures as are necessary to implement this section.

SECTION 2. This proposed constitutional amendment shall be submitted to the voters at an election to be held on November 5, 1985. The ballot shall be printed to provide for voting for or against the proposition: "The constitutional amendment to require approval by the Legislative Budget Board and the office of

the governor of certain state agencies' use of appropriated funds for private consulting services or professional services."

(Speaker pro tempore in the chair)

CSHJR 72 was read second time.

Representative Hollowell offered the following amendment to the resolution:

Amend CSHJR 72 by renumbering Section 2 as Section 3 and adding a new Section 2 to read as follows:

SECTION 2. The Texas Constitution is amended by adding an unnumbered transition provision to read as follows:

TRANSITION PROVISION. If H.B. 1615, Acts of the 69th Legislature, Regular Session, 1985, becomes law, the procedures provided by Section 4A, Professional Services Procurement Act (Article 664-4, Vernon's Texas Civil Statutes), and Chapter 454, Acts of the 65th Legislature, Regular Session, 1977 (Article 6252-11c, Vernon's Texas Civil Statutes), as those Acts are amended by H.B. 1615, apply to the procurement of services under Article XVI, Section 69, of this constitution until rules and procedures are adopted under Article XVI, Section 69. This transition provision expires January 1, 1990.

The amendment was adopted without objection.

A record vote was requested.

CSHJR 72 was read second time and was adopted, as amended, by (Record 384): 142 Yeas, 1 Nay, 1 Present, not voting.

Yeas — Adkisson; Agnich; Armbrister; Arnold; Barton; Berlanga(C); Blackwood; Blanton; Buchanan; Burnett; Bush; Cain; Campbell; Carriker; Carter; Cavazos; Ceverha; Clark; Clemons; Colbert; Collazo; Connelly; Cooper; Craddick; Criss; Danburg; Delco; Denton; Dutton; Earley; Eckels; Edge; Emmett; Evans, C.; Evans, L.; Finnell; Fox; Garcia, A.; Garcia, O.; Gavin; Geistweidt; Gibson; Gilley; Givens; Glossbrenner; Godwin; Granoff; Guerrero; Haley; Hall; Hammond; Harris, C.; Harris, J.; Harrison; Heflin; Hightower; Hilbert; Hill, A.; Hill, P.; Hinojosa; Hollowell; Horn; Hudson, D.; Hudson, S.; Hury; Jackson; Johnson, C.; Johnson, S.; Jones; Keller; Kubiak; Kuempel; Laney; Lee; Leonard; Lewis, R.; Luna, A.; Luna, G.; McDonald; McKenna; McKinney; McWilliams; Madla; Melton; Messer; Millsap; Morales; Moreno, A.; Moreno, P.; Oliveira; Oliver; Parker; Patrick; Patronella; Patterson; Pennington; Perez; Perry; Pierce; Price; Rangel; Richardson; Riley; Roberts; Robinson; Robnett; Rudd; Russell; Saunders; Schlueter; Schoolcraft; Shaw; Shea; Short; Smith, A.; Smith, C.; Smith, R.; Smith, T.; Smithee; Staniswalis; Stiles; Sutton; Tallas; Taylor; Tejeda; Thompson, G. E.; Thompson, G. W.; Thompson, S.; Toomey; Uher; Valigura; Vowell; Waldrop; Watson; Whaley; Williamson; Willis; Willy; Wilson; Wolens; Wright; Yost.

Nay — Ragsdale.

Present, not voting — Mr. Speaker.

Absent, Excused — Green; Wallace.

Absent — Edwards; Hackney; Martinez; Pumbo.

HJR 83 ON SECOND READING

The chair laid before the house on its second reading and passage to engrossment,

HJR 83, A joint resolution proposing a constitutional amendment to provide for six-person juries in civil cases.

The resolution was read second time.

Representative Perez offered the following amendment to the resolution:

Amend **HJR 83** as follows:

(1) Strike lines 20-24 on page 1 and lines 1-3 on page 2 and substitute the following:

(b) In a civil case in District Court the jury shall consist of six or twelve persons as provided by general law.

(2) Strike lines 7 and 8 on page 2 and substitute the following:
13, of this constitution relating to the composition of juries in district court civil cases takes effect September 1,

(3) Strike lines 13 and 14 on page 2 and substitute the following:
against the proposition: "The constitutional amendment relating to the composition of juries in district court civil cases."

The amendment was adopted without objection.

(Wallace now present)

A record vote was requested.

The resolution was read second time and was adopted, as amended, by (Record 385): 107 Yeas, 35 Nays, 1 Present, not voting.

Yeas — Adkisson; Agnich; Barton; Berlanga(C); Blackwood; Blanton; Buchanan; Burnett; Cain; Campbell; Carter; Cavazos; Ceverha; Clemons; Colbert; Collazo; Connelly; Cooper; Craddick; Danburg; Delco; Denton; Dutton; Earley; Emmett; Fennell; Fox; Garcia, A.; Gavin; Geistweidt; Gibson; Gilley; Givens; Glossbrenner; Godwin; Granoff; Guerrero; Hackney; Hall; Hammond; Harris, J.; Harrison; Hightower; Hilbert; Hill, A.; Hill, P.; Hinojosa; Hollowell; Horn; Jackson; Johnson, C.; Johnson, S.; Jones; Kubiak; Kuempel; Lee; Leonard; Lewis, R.; Luna, A.; McDonald; McKenna; McWilliams; Madla; Martinez; Messer; Millsap; Morales; Moreno, A.; Moreno, P.; Oliveira; Oliver; Patronella; Patterson; Pennington; Perez; Perry; Price; Ragsdale; Rangel; Riley; Roberts; Russell; Saunders; Schlueter; Shaw; Short; Smith, R.; Smith, T.; Staniswalis; Stiles; Sutton; Tejeda; Thompson, G. E.; Thompson, G. W.; Thompson, S.; Uher; Valigura; Vowell; Wallace; Watson; Whaley; Williamson; Willis; Willy; Wilson; Wolens; Wright.

Nays — Armbrister; Arnold; Clark; Criss; Edge; Evans, C.; Evans, L.; Garcia, O.; Haley; Harris, C.; Heflin; Hudson, D.; Hudson, S.; Hury; Keller; Luna, G.; McKinney; Melton; Parker; Patrick; Pierce; Richardson; Robinson; Robnett; Rudd; Schoolcraft; Shea; Smith, A.; Smith, C.; Smithee; Tallas; Taylor; Toomey; Waldrop; Yost.

Present, not voting — Mr. Speaker.

Absent, Excused — Green.

Absent — Bush; Carriker; Eckels; Edwards; Laney; Polumbo.

SB 251 ON THIRD READING
(G. E. Thompson - House Sponsor)

The chair laid before the house on its third reading and final passage,

SB 251, A bill to be entitled An Act relating to courtrooms, office space, equipment, and supplies for justices of the peace; amending Section 1a, Chapter 622, Acts of the 62nd Legislature, Regular Session, 1971, as amended (Article 3912k, Vernon's Texas Civil Statutes).

The bill was read third time and was passed. (Godwin and Richardson recorded voting no; Gibson and Clark, yes.)

SB 366 ON THIRD READING
(Haley - House Sponsor)

The chair laid before the house on its third reading and final passage,

SB 366, A bill to be entitled An Act relating to the State Depository Board, the State Treasurer, and the management of state funds; to certain obligations and funds of municipalities, districts, and political subdivisions; and to trust funds inside and outside of the treasury; providing penalties.

The bill was read third time and was passed.

SB 477 ON THIRD READING
(Keller - House Sponsor)

The chair laid before the house on its third reading and final passage,

SB 477, A bill to be entitled An Act relating to the offense of assault and to punishment for the offense if the victim of the assault is a peace officer, jailer, or guard; amending Subsections (a) and (c), Section 22.02, Penal Code, as amended.

The bill was read third time and was passed. (S. Thompson recorded voting no.)

SB 655 ON THIRD READING
(Berlanga - House Sponsor)

The chair laid before the house on its third reading and final passage,

SB 655, A bill to be entitled An Act relating to membership on a hospital medical staff and to the authority of hospitals and medical personnel; amending the Texas Hospital Licensing Law, as amended (Article 4437f, Vernon's Texas Civil Statutes), by amending Subsection (e) of Section 2 and Section 17 and by adding a new Section 18.

A record vote was requested.

The bill was read third time and was passed by (Record 386): 125 Yeas, 2 Nays, 1 Present, not voting.

Yeas — Adkisson; Agnich; Armbrister; Arnold; Barton; Berlanga(C); Blackwood; Blanton; Buchanan; Burnett; Cain; Campbell; Carriker; Carter; Cavazos; Ceverha; Clemons; Colbert; Collazo; Connelly; Cooper; Craddick; Criss; Danburg; Delco; Denton; Dutton; Earley; Eckels; Edge; Emmett; Evans, C.; Evans, L.; Finnell; Fox; Garcia, A.; Garcia, O.; Gavin; Gibson; Gilley; Givens; Glossbrenner; Godwin; Granoff; Guerrero; Hackney; Hammond; Harris, C.; Harrison; Heflin; Hightower; Hilbert; Hill, A.; Hill, P.; Hinojosa; Hollowell; Horn; Hudson, D.; Hudson, S.; Jackson; Johnson, S.; Jones; Kuempel; Laney; Lee; Leonard; Lewis, R.; Luna, G.; McDonald; McKenna; McKinney; Madla; Melton;

Messer; Millsap; Morales; Moreno, A.; Moreno, P.; Oliveira; Oliver; Parker; Patronella; Patterson; Pennington; Perez; Perry; Pierce; Price; Ragsdale; Rangel; Richardson; Riley; Roberts; Rudd; Russell; Saunders; Schlueter; Schoolcraft; Shaw; Shea; Smith, A.; Smith, R.; Smith, T.; Smithee; Staniswalis; Sutton; Tallas; Taylor; Tejada; Thompson, G. W.; Thompson, S.; Toomey; Uher; Valigura; Vowell; Waldrop; Wallace; Watson; Whaley; Williamson; Willis; Willy; Wilson; Wright; Yost.

Nays — Kubiak; McWilliams.

Present, not voting — Mr. Speaker.

Absent, Excused — Green.

Absent — Bush; Clark; Edwards; Geistweidt; Haley; Hall; Harris, J.; Hury; Johnson, C.; Keller; Luna, A.; Martinez; Patrick; Polumbo; Robinson; Robnett; Short; Smith, C.; Stiles; Thompson, G. E.; Wolens.

On motion of Representative Messer and by unanimous consent, the caption of SB 655 was ordered amended to conform to the body of the bill.

SB 675 ON THIRD READING
(Uher - House Sponsor)

The chair laid before the house on its third reading and final passage,

SB 675, A bill to be entitled An Act relating to the establishment of independent school district, city, union, county, or joint-county junior colleges and to certain powers of the coordinating board; amending Sections 130.011, 130.012, 130.013, 130.014, 130.032, 130.034, 130.036, 130.037, 130.038, and 61.062, Education Code; and repealing Subchapter F, Regional College Districts, Chapter 130 of that code.

A record vote was requested.

The bill was read third time and was passed by (Record 387): 132 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Adkisson; Agnich; Armbrister; Arnold; Barton; Berlanga(C); Blackwood; Blanton; Buchanan; Burnett; Bush; Cain; Campbell; Carriker; Carter; Cavazos; Ceverha; Clark; Clemons; Collazo; Connelly; Cooper; Craddick; Criss; Danburg; Delco; Denton; Dutton; Earley; Eckels; Edge; Evans, C.; Evans, L.; Finnell; Fox; Garcia, A.; Garcia, O.; Gavin; Geistweidt; Gibson; Gilley; Givens; Glossbrenner; Godwin; Granoff; Guerrero; Hackney; Hall; Hammond; Harris, C.; Harris, J.; Harrison; Heflin; Hightower; Hilbert; Hill, A.; Hinojosa; Hollowell; Horn; Hudson, D.; Hudson, S.; Jackson; Johnson, C.; Johnson, S.; Jones; Kubiak; Kuempel; Laney; Lee; Leonard; Lewis, R.; McDonald; McKenna; McKinney; McWilliams; Madla; Melton; Messer; Millsap; Morales; Moreno, A.; Moreno, P.; Oliveira; Oliver; Patrick; Patronella; Patterson; Pennington; Perez; Perry; Pierce; Price; Ragsdale; Rangel; Richardson; Riley; Roberts; Robnett; Russell; Saunders; Schlueter; Schoolcraft; Shaw; Shea; Smith, A.; Smith, R.; Smith, T.; Smithee; Staniswalis; Stiles; Sutton; Tallas; Taylor; Tejada; Thompson, G. E.; Thompson, G. W.; Thompson, S.; Toomey; Uher; Valigura; Vowell; Waldrop; Wallace; Watson; Whaley; Williamson; Willis; Willy; Wilson; Wolens; Wright; Yost.

Present, not voting — Mr. Speaker.

Absent, Excused — Green.

Absent — Colbert; Edwards; Emmett; Haley; Hill, P.; Hury; Keller; Luna, A.; Luna, G.; Martinez; Parker; Polumbo; Robinson; Rudd; Short; Smith, C.

On motion of Representative Uher and by unanimous consent, the caption of **SB 675** was ordered amended to conform to the body of the bill.

HB 20 - COMMITTEE MEETING

Representative Rudd announced that the house conferees on **HB 20** would meet at this time.

SB 1272 ON THIRD READING (Pennington - House Sponsor)

The chair laid before the house on its third reading and final passage,

SB 1272, A bill to be entitled An Act relating to the creation, administration, powers, duties, operations, and financing of regional districts for water supply, sanitary sewer, and wastewater drainage purposes under Article XVI, Section 59, of the Texas Constitution; adding Subchapter M to Chapter 50, Water Code.

The bill was read third time and was passed. (Williamson recorded voting no.)

On motion of Representative Pennington and by unanimous consent, the caption of **SB 1272** was ordered amended to conform to the body of the bill.

SB 1282 ON THIRD READING (Price - House Sponsor)

The chair laid before the house on its third reading and final passage,

SB 1282, A bill to be entitled An Act relating to the issuance of bonds by certain cities to pay current expenses; providing for the levy of a tax to pay the principal of and interest thereon; containing other provisions pertaining to the subject; and declaring an emergency.

The bill was read third time.

Representative Leonard offered the following amendment to the bill:

Amend **SB 1282** by renumbering Sections 8-11 as Sections 9-12 and adding a new Section 8 to read as follows:

SECTION 8. REDEMPTION. On recovery of a loss covered by this Act or failure of an anticipated loss covered by this Act to occur, the governing body shall promptly redeem bonds issued to cover the loss or anticipated loss in a principal amount equal to the amount recovered or the amount of anticipated loss not occurring.

The amendment was adopted without objection.

A record vote was requested.

SB 1282, as amended, was passed by (Record 388): 120 Yeas, 7 Nays, 1 Present, not voting.

Yeas — Adkisson; Agnich; Armbrister; Arnold; Barton; Berlanga(C); Blackwood; Blanton; Buchanan; Burnett; Cain; Cavazos; Ceverha; Clark; Clemons; Collazo; Connelly; Cooper; Craddick; Criss; Danburg; Delco; Denton; Earley; Eckels; Edge; Edwards; Evans, C.; Evans, L.; Finnell; Garcia, A.; Garcia, O.; Gavin; Geistweidt; Gibson; Gilley; Givens; Glossbrenner; Godwin; Granoff; Guerrero; Haley; Hall; Hammond; Harris, C.; Harris, J.; Harrison; Heflin; Hightower; Hilbert; Hill, A.; Hill, P.; Hinojosa; Hollowell; Horn; Hudson, D.; Hudson, S.; Jackson; Johnson, C.; Johnson, S.; Jones; Kubiak; Kuempel; Laney;

Lee; Leonard; Lewis, R.; McDonald; McKinney; Madla; Melton; Messer; Millsap; Morales; Moreno, A.; Moreno, P.; Oliveira; Oliver; Patrick; Patronella; Patterson; Pennington; Perez; Pierce; Price; Ragsdale; Rangel; Riley; Robnett; Russell; Saunders; Schlueter; Schoolcraft; Shaw; Smith, A.; Smith, R.; Smith, T.; Smithee; Staniswalis; Stiles; Sutton; Tallas; Taylor; Tejeda; Thompson, G. E.; Thompson, G. W.; Thompson, S.; Toomey; Valigura; Vowell; Waldrop; Wallace; Watson; Whaley; Williamson; Willis; Willy; Wilson; Wright; Yost.

Nays — Carter; Fox; Keller; McKenna; Richardson; Roberts; Shea.

Present, not voting — Mr. Speaker.

Absent, Excused — Green.

Absent — Bush; Campbell; Carriker; Colbert; Dutton; Emmett; Hackney; Hury; Luna, A.; Luna, G.; McWilliams; Martinez; Parker; Perry; Polumbo; Robinson; Rudd; Short; Smith, C.; Uher; Wolens.

On motion of Representative Price and by unanimous consent, the caption of **SB 1282** was ordered amended to conform to the body of the bill.

SB 905 ON THIRD READING
(Schlueter - House Sponsor)

The chair laid before the house on its third reading and final passage,

SB 905, A bill to be entitled An Act relating to the regulation of the sale, manufacture, and distribution of certain motor vehicles and to powers of the Texas Motor Vehicle Commission; amending the Texas Motor Vehicle Commission Code, as amended (Article 4413(36), Vernon's Texas Civil Statutes), by amending Subsection (a) of Section 2.03, Subsection (j) of Section 3.04, Section 4.04, Subsection (c) of Section 4.02, Sections 5.01, 5.02, and 6.01 and by adding Section 6.01A.

A record vote was requested.

The bill was read third time and was passed by (Record 389): 135 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Adkisson; Agnich; Armbrister; Arnold; Barton; Berlanga(C); Blackwood; Blanton; Buchanan; Burnett; Cain; Carriker; Carter; Cavazos; Ceverha; Clark; Clemons; Collazo; Connelly; Cooper; Craddick; Criss; Danburg; Delco; Denton; Dutton; Earley; Eckels; Edge; Emmett; Evans, C.; Evans, L.; Finnell; Fox; Garcia, A.; Garcia, O.; Gavin; Geistweidt; Gibson; Gilley; Givens; Glossbrenner; Godwin; Granoff; Guerrero; Hackney; Haley; Hall; Hammond; Harris, C.; Harris, J.; Harrison; Heflin; Hightower; Hilbert; Hill, A.; Hill, P.; Hinojosa; Hollowell; Horn; Hudson, D.; Hudson, S.; Jackson; Johnson, C.; Johnson, S.; Jones; Keller; Kubiak; Kuempel; Lee; Leonard; Lewis, R.; Luna, A.; Luna, G.; McDonald; McKenna; McKinney; Madla; Melton; Messer; Millsap; Morales; Moreno, A.; Moreno, P.; Oliveira; Oliver; Patrick; Patronella; Patterson; Pennington; Perez; Perry; Pierce; Price; Ragsdale; Rangel; Richardson; Riley; Roberts; Robnett; Rudd; Russell; Saunders; Schlueter; Schoolcraft; Shaw; Shea; Short; Smith, A.; Smith, C.; Smith, R.; Smith, T.; Smithee; Staniswalis; Stiles; Sutton; Tallas; Taylor; Tejeda; Thompson, G. E.; Thompson, G. W.; Thompson, S.; Toomey; Uher; Valigura; Vowell; Waldrop; Wallace; Watson; Williamson; Willis; Willy; Wilson; Wright; Yost.

Present, not voting — Mr. Speaker.

Absent, Excused — Green.

Absent — Bush; Campbell; Colbert; Edwards; Hury; Laney; McWilliams; Martinez; Parker; Polumbo; Robinson; Whaley; Wolens.

SB 1267 ON THIRD READING
(Messer - House Sponsor)

The chair laid before the house on its third reading and final passage,

SB 1267, A bill to be entitled An Act relating to regulation of manufactured housing; providing for transportation, installation, registration, fees, bonds and security, and penalties; amending the Texas Manufactured Housing Standards Act, as amended (Article 5221f, Vernon's Texas Civil Statutes), by adding Sections 3A and 4A, Subsection (p) to Section 7 and Subsection (j) to Section 13 and by amending Subsection (g) of Section 3, Subsections (d) and (f) of Section 6, Subsections (k) and (n) of Section 7, Section 8, Subsections (r) and (h) of Section 11, Subsections (g) and (h) of Section 13, Section 17, and Subsections (d) and (f) of Section 18 and Section 20; amending Article 6701-1/2, Revised Statutes, as amended.

The bill was read third time and was passed.

On motion of Representative Messer and by unanimous consent, the caption of **SB 1267** was ordered amended to conform to the body of the bill.

LEAVES OF ABSENCE GRANTED

The following members were granted leaves of absence temporarily for today because of a conference committee meeting:

Rudd on motion of Wolens.

Hollowell on motion of Wolens.

Toomey on motion of Wolens.

McWilliams on motion of Wolens.

Madla on motion of Wolens.

SB 807 ON THIRD READING
(Saunders - House Sponsor)

The chair laid before the house on its third reading and final passage,

SB 807, A bill to be entitled An Act relating to the procedures governing purchases made by counties; providing penalties; amending Sections 2, 2a, 2b, 3, 4, and 5, Bond and Warrant Law of 1931, as amended; Subsection (b), Section 6, and Section 7, The Certificate of Obligation Act of 1971, as amended; Section 1, Chapter 453, Acts of the 45th Legislature, Regular Session, 1937, as amended; Section 1, Chapter 360, Acts of the 47th Legislature, Regular Session, 1941, as amended; Section 1, Chapter 424, Acts of the 47th Legislature, Regular Session, 1941; Sections 1 and 2, Chapter 116, Acts of the 56th Legislature, Regular Session, 1959, as amended; Subdivision 2, Subsection (e), Section 3.102, County Road and Bridge Act, as amended (Articles 2368a, 2368a.1, 2351a, 2351a-1, 2351a-2, 2367a, and 6702-1, Vernon's Texas Civil Statutes); and repealing Articles 1658, 1659, 1659a, 1659b, 2358, 2359, 2360, 2361, 2362, 2363, 2364, 2365, 2366, and 2367, Revised Statutes, and Section 4.436, County Road and Bridge Act and Sections 25 and 26, Chapter 299, Acts of the 52nd Legislature, 1951 (Articles 6702-1 and 6812b, Vernon's Texas Civil Statutes).

The bill was read third time and was passed. (Richardson recorded voting no.)

On motion of Representative Saunders and by unanimous consent, the caption of **SB 807** was ordered amended to conform to the body of the bill.

SB 1231 ON THIRD READING
(Keller - House Sponsor)

The chair laid before the house on its third reading and final passage,

SB 1231, A bill to be entitled An Act relating to the procedures in certain eviction actions; adding Section 24.0061 to Chapter 24, Property Code.

The bill was read third time and was passed.

SB 1238 ON THIRD READING
(A. Smith - House Sponsor)

The chair laid before the house on its third reading and final passage,

SB 1238, A bill to be entitled An Act relating to the regulation, licensing and fees of insurance, health maintenance organization, and pre-paid legal agents and insurance adjusters.

The bill was read third time and was passed.

On motion of Representative A. Smith and by unanimous consent, the caption of **SB 1238** was ordered amended to conform to the body of the bill.

SB 1063 ON THIRD READING
(Carter - House Sponsor)

The chair laid before the house on its third reading and final passage,

SB 1063, A bill to be entitled An Act relating to the licensing of surplus lines agents.

The bill was read third time and was passed.

On motion of Representative Carter and by unanimous consent, the caption of **SB 1063** was ordered amended to conform to the body of the bill.

SB 500 ON SECOND READING
(Messer - House Sponsor)

The chair laid before the house on its second reading and passage to third reading,

SB 500, A bill to be entitled An Act relating to requiring safety belts on certain motor vehicles and to the regulation of their use; providing a penalty; amending the Uniform Act Regulating Traffic on Highways, as amended (Article 6701d, Vernon's Texas Civil Statutes), by adding Section 107C and amending Section 139E; amending Subsection (b), Section 22, Chapter 173, Acts of the 47th Legislature, Regular Session, 1941 (Article 6687b, Vernon's Texas Civil Statutes).

The bill was read second time.

(Millsap in the chair)

Representative Perry offered the following amendment to the bill:

Amend **SB 500** on page 1, Section 1, line 15 by striking out "not more" and replacing it with "less".

(Speaker pro tempore in the chair)

Representative Messer moved to table the Perry amendment.

A record vote was requested.

The motion to table prevailed by (Record 390): 84 Yeas, 52 Nays, 2 Present, not voting.

Yeas — Adkisson; Armbrister; Arnold; Barton; Berlanga(C); Blanton; Burnett; Bush; Cain; Campbell; Carter; Cavazos; Ceverha; Clemons; Colbert; Collazo; Connelly; Criss; Danburg; Dutton; Eckels; Edge; Edwards; Emmett; Evans, L.; Finnell; Fox; Garcia, O.; Gavin; Gilley; Granoff; Hackney; Hall; Hammond; Harris, C.; Heflin; Hilbert; Hill, A.; Hill, P.; Hinojosa; Hudson, D.; Hudson, S.; Hury; Jackson; Jones; Kuempel; Luna, A.; Luna, G.; McDonald; McKinney; Melton; Messer; Morales; Moreno, A.; Oliveira; Oliver; Patronella; Pennington; Perez; Pierce; Price; Ragsdale; Richardson; Roberts; Robnett; Schoolcraft; Shaw; Shea; Smith, A.; Smith, C.; Smith, T.; Tallas; Taylor; Tejeda; Thompson, G. E.; Thompson, G. W.; Thompson, S.; Vowell; Wallace; Watson; Willis; Wilson; Wolens; Wright.

Nays — Agnich; Blackwood; Buchanan; Carriker; Clark; Cooper; Craddick; Denton; Earley; Evans, C.; Garcia, A.; Geistweidt; Gibson; Givens; Glossbrenner; Godwin; Haley; Harris, J.; Hightower; Johnson, C.; Johnson, S.; Keller; Kubiak; Laney; Lee; Leonard; Lewis, R.; McKenna; Millsap; Parker; Patrick; Patterson; Perry; Rangel; Riley; Robinson; Russell; Saunders; Schlueter; Short; Smith, R.; Smithee; Staniswalis; Stiles; Sutton; Uher; Valigura; Waldrop; Whaley; Williamson; Willy; Yost.

Present, not voting — Mr. Speaker; Horn.

Absent, Excused — Green; Hollowell; McWilliams; Madla; Rudd; Toomey.

Absent — Delco; Guerrero; Harrison; Martinez; Moreno, P.; Pumbo.

Representative Whaley offered the following amendment to the bill:

Amend **SB 500** on page 2 by inserting a new subsection, appropriately lettered between lines 22 and 23 to read as follows and relettering subsequent subsections accordingly:

() This section does not apply to a person riding in a vehicle for the purpose of performing farm work in the right-of-way that requires frequent entry into and exit from the vehicle.

Representative Messer moved to table the Whaley amendment.

A record vote was requested.

The motion to table prevailed by (Record 391): 91 Yeas, 47 Nays, 1 Present, not voting.

Yeas — Adkisson; Arnold; Barton; Berlanga(C); Blanton; Bush; Cain; Carter; Cavazos; Ceverha; Clemons; Colbert; Collazo; Connelly; Criss; Danburg; Delco; Dutton; Earley; Eckels; Edge; Edwards; Emmett; Evans, C.; Evans, L.; Garcia, O.; Gavin; Gibson; Gilley; Granoff; Guerrero; Hackney; Haley; Hall; Hammond; Harris, C.; Heflin; Hilbert; Hill, A.; Hill, P.; Hinojosa; Hudson, D.; Hudson, S.; Hury; Jackson; Johnson, S.; Jones; Kuempel; Luna, A.; Luna, G.; McDonald; McKinney; Melton; Messer; Morales; Moreno, A.; Moreno, P.; Oliveira; Oliver; Parker; Patrick; Patronella; Pennington; Perez; Pierce; Price; Ragsdale; Rangel; Richardson; Roberts; Robnett; Schoolcraft; Shaw; Shea; Smith, A.; Smith, T.; Staniswalis; Tallas; Taylor; Tejeda; Thompson, G. E.; Thompson, G. W.; Thompson, S.; Vowell; Wallace; Watson; Williamson; Willis; Wilson; Wolens; Wright.

Nays — Agnich; Armbrister; Blackwood; Buchanan; Burnett; Campbell; Carriker; Clark; Cooper; Craddick; Denton; Finnell; Fox; Garcia, A.; Geistweidt; Givens; Glossbrenner; Godwin; Harris, J.; Hightower; Johnson, C.; Keller; Kubiak; Laney; Lee; Leonard; Lewis, R.; McKenna; Millsap; Patterson; Perry; Riley; Robinson; Russell; Saunders; Schlueter; Short; Smith, C.; Smith, R.; Smithee; Stiles; Uher; Valigura; Waldrop; Whaley; Willy; Yost.

Present, not voting — Mr. Speaker.

Absent, Excused — Green; Hollowell; McWilliams; Madla; Rudd; Toomey.

Absent — Harrison; Horn; Martinez; Polumbo; Sutton.

LEAVE OF ABSENCE GRANTED

The following member was granted leave of absence for the remainder of today because of important business:

Vowell on motion of Messer.

SB 500 - (consideration continued)

Representative Valigura offered the following amendment to the bill:

Amend **SB 500** by deleting Section 4 in its entirety, beginning on page 5, line 22 through page 6, line 3 and inserting in lieu thereof a new Section 4 as follows:

"Sec. 4. (a) If the Attorney General of Texas finds that requirements of the Department of Transportation regarding Mandatory Use Laws Alternatives (MULs) is repealed or suspended by the Department of Transportation or that the enforcement of it has for any reason been enjoined and the injunction has been upheld by the U.S. Court of Appeals for the Fifth Circuit or the United States Supreme Court, or if the Attorney General finds that the U.S. Court of Appeals for the Fifth Circuit or the U.S. Supreme Court has a final order holding that the Federal regulation promulgated by the Department of Transportation, to the extent it has the described effect, or a rule implementing it, is unconstitutional or otherwise invalid, in whole or in part, or should the Attorney General determine that two-thirds (2/3) of the population of the United States, excluding the State of Texas, have enacted MULs pursuant to federal regulations promulgated by the Department of Transportation, the Attorney General shall file a certificate of that fact with the Secretary of State. The Secretary shall publish the certificate in the Texas Register.

(b) The preceding sections of the Act take effect September 1, 1985, except that if before that date the Attorney General has filed with the Secretary of State a certificate finding the existence of one of the facts specified in Subsection (a) of this section the effective date of this Act is delayed until the thirtieth (30) day after the date on which the Attorney General files another certificate with the Secretary of State stating that none of the facts specified in Subsection (a) of this section exists. The Secretary shall publish the Certificate in the Texas Register.

(c) If, after this Act has taken effect, the Attorney General files with the Secretary of State a certificate of finding that one of the facts specified in Subsection (a) of this section exists, those provisions of Article XIII, Uniform Act Regulating Traffic on Highways (Article 6701d, Vernon's Texas Civil Statutes) and those provisions of Subsection (b), Section 22, Chapter 173, Acts of the 47th Legislature, Regular Session, 1941 (Article 6687b, Vernon's Texas Civil Statutes) are repealed effective ninety (90) days after the filing of such certificate.

Representative Messer moved to table the Valigura amendment.

The motion to table prevailed. (Staniswalis recorded voting no.)

Representative Craddick offered the following amendment to the bill:

Amend **SB 500** on page 3 between lines 14 and 15 by inserting a new Section 3 to read as follows and renumbering the subsequent sections accordingly:

SECTION 3. Section 167, Uniform Act Regulating Traffic on Highways (Article 6701d, Vernon's Texas Civil Statutes), is amended by adding Subsection (c) to read as follows:

(c) The State Highway and Public Transportation Commission shall set the maximum speed limit, for a passenger car, motorcycle, or motor-driven cycle on a state or federal numbered highway outside an urban district, at not less than sixty-five (65) miles per hour if the chairman of the Commission finds that the secretary of the United States Department of Transportation has determined that a speed limit of sixty-five (65) will not jeopardize the availability of federal highway funds for this state.

Representative Messer moved to table the Craddick amendment.

A record vote was requested.

The motion to table prevailed by (Record 392): 75 Yeas, 64 Nays, 1 Present, not voting.

Yeas — Adkisson; Arnold; Barton; Berlanga(C); Blackwood; Blanton; Cain; Campbell; Carter; Cavazos; Ceverha; Colbert; Collazo; Connelly; Cooper; Criss; Delco; Dutton; Earley; Eckels; Edge; Edwards; Emmett; Evans, C.; Evans, L.; Finnell; Garcia, O.; Gavin; Gibson; Granoff; Guerrero; Hackney; Harrison; Hightower; Hilbert; Hill, A.; Hinojosa; Hudson, D.; Hudson, S.; Hury; Jackson; Kuempel; Luna, A.; McKinney; Melton; Messer; Morales; Moreno, A.; Moreno, P.; Oliveira; Oliver; Parker; Patrick; Patronella; Pennington; Perez; Perry; Pierce; Price; Ragsdale; Richardson; Robnett; Shaw; Staniswalis; Sutton; Tallas; Taylor; Tejeda; Thompson, G. W.; Thompson, S.; Wallace; Williamson; Willis; Wilson; Wolens.

Nays — Agnich; Armbrister; Buchanan; Burnett; Carriker; Clark; Clemons; Craddick; Danburg; Denton; Fox; Garcia, A.; Geistweidt; Gilley; Givens; Glossbrenner; Godwin; Haley; Hall; Hammond; Harris, C.; Harris, J.; Heflin; Hill, P.; Horn; Johnson, C.; Johnson, S.; Jones; Keller; Kubiak; Laney; Lee; Leonard; Lewis, R.; Luna, G.; McDonald; McKenna; Millsap; Patterson; Rangel; Riley; Roberts; Robinson; Russell; Saunders; Schlueter; Schoolcraft; Shea; Short; Smith, A.; Smith, C.; Smith, R.; Smith, T.; Smithee; Stiles; Thompson, G. E.; Uher; Valigura; Waldrop; Watson; Whaley; Willy; Wright; Yost.

Present, not voting — Mr. Speaker.

Absent, Excused — Green; Hollowell; McWilliams; Madla; Rudd; Toomey; Vowell.

Absent — Bush; Martinez; Pumbo.

Representative Craddick offered the following amendment to the bill:

Amend **SB 500** on page 3 by inserting the following between lines 6 and 7:

(k) An insurer may not cancel or fail to renew a policy of motor vehicle insurance, and the premium charged an insured for a motor vehicle insurance policy may not be increased, based on a conviction of an offense under this section.

Representative Messer moved to table the Craddick amendment.

A record vote was requested.

The motion to table prevailed by (Record 393): 75 Yeas, 62 Nays, 1 Present, not voting.

Yeas — Adkisson; Armbrister; Arnold; Barton; Berlanga(C); Blackwood; Blanton; Bush; Cain; Campbell; Carter; Cavazos; Ceverha; Clemons; Collazo; Connelly; Criss; Danburg; Delco; Earley; Edge; Edwards; Evans, C.; Evans, L.; Finnell; Gavin; Gibson; Granoff; Guerrero; Hackney; Hall; Harrison; Hightower; Hilbert; Hill, A.; Hinojosa; Hudson, D.; Hudson, S.; Hury; Jackson; Kuempel; Luna, A.; McDonald; McKinney; Melton; Messer; Morales; Moreno, A.; Oliver; Parker; Patronella; Pennington; Perez; Perry; Pierce; Price; Ragsdale; Richardson; Robinson; Robnett; Schoolcraft; Shaw; Smith, A.; Stiles; Sutton; Tallas; Taylor; Tejeda; Thompson, G. W.; Wallace; Williamson; Willis; Wilson; Wolens; Wright.

Nays — Agnich; Buchanan; Burnett; Carriker; Clark; Cooper; Craddick; Denton; Dutton; Eckels; Emmett; Fox; Garcia, A.; Garcia, O.; Geistweidt; Gilley; Givens; Glossbrenner; Godwin; Haley; Hammond; Harris, C.; Harris, J.; Heflin; Hill, P.; Johnson, C.; Johnson, S.; Jones; Kubiak; Laney; Lee; Leonard; Lewis, R.; Luna, G.; McKenna; Millsap; Moreno, P.; Oliveira; Patrick; Patterson; Rangel; Riley; Roberts; Russell; Saunders; Schlueter; Shea; Short; Smith, C.; Smith, R.; Smith, T.; Smithee; Staniswalis; Thompson, G. E.; Thompson, S.; Uher; Valigura; Waldrop; Watson; Whaley; Willy; Yost.

Present, not voting — Mr. Speaker.

Absent, Excused — Green; Hollowell; McWilliams; Madla; Rudd; Toomey; Vowell.

Absent — Colbert; Horn; Keller; Martinez; Polumbo.

Representative T. Smith offered the following amendment to the bill:

Amend **SB 500** as follows:

On page 3, strike lines 5 and 6.

Representative Messer moved to table the T. Smith amendment.

The motion to table prevailed.

Representative Patterson offered the following amendment to the bill:

Amend **SB 500**, Page 2, line 9, by striking all after "of" and adding "\$25., including court costs".

(Toomey now present)

Representative Messer moved to table the Patterson amendment.

A record vote was requested.

The motion to table prevailed by (Record 394): 80 Yeas, 54 Nays, 2 Present, not voting.

Yeas — Adkisson; Armbrister; Arnold; Barton; Berlanga(C); Blackwood; Blanton; Campbell; Carter; Cavazos; Colbert; Collazo; Connelly; Criss; Danburg; Earley; Eckels; Edge; Edwards; Evans, C.; Evans, L.; Finnell; Garcia, O.; Gavin; Gibson; Glossbrenner; Granoff; Guerrero; Hackney; Hall; Hammond; Heflin; Hilbert; Hill, A.; Hill, P.; Hinojosa; Hudson, D.; Hudson, S.; Hury; Jackson; Johnson, S.; Jones; Kuempel; Luna, A.; Luna, G.; Messer; Morales; Moreno, A.; Oliver; Parker; Patrick; Patronella; Pennington; Perez; Pierce; Price; Ragsdale; Rangel; Richardson; Roberts; Robnett; Saunders; Schoolcraft; Shaw; Shea; Smith, A.; Smith, R.; Smith, T.; Sutton; Tallas; Taylor; Tejeda;

Thompson, G. W.; Thompson, S.; Toomey; Wallace; Williamson; Wilson; Wolens; Wright.

Nays — Agnich; Buchanan; Burnett; Bush; Cain; Carriker; Ceverha; Clark; Clemons; Cooper; Craddick; Delco; Denton; Dutton; Fox; Garcia, A.; Geistweidt; Gilley; Givens; Godwin; Harris, C.; Harris, J.; Hightower; Johnson, C.; Keller; Kubiak; Laney; Lee; Leonard; Lewis, R.; McDonald; McKenna; McKinney; Melton; Millsap; Moreno, P.; Oliveira; Patterson; Perry; Riley; Robinson; Schlueter; Smith, C.; Smithee; Staniswalis; Stiles; Uher; Valigura; Waldrop; Watson; Whaley; Willis; Willy; Yost.

Present, not voting — Mr. Speaker; Martinez.

Absent, Excused — Green; Hollowell; McWilliams; Madla; Rudd; Vowell.

Absent — Emmett; Haley; Harrison; Horn; Polumbo; Russell; Short; Thompson, G. E.

Representative Carriker offered the following amendment to the bill:

Add a new Subsection H and renumber following Subsections.

(H) It is a defense to prosecution under this section that a person committed no traffic offense other than an offense under this section.

Representative Messer moved to table the Carriker amendment.

A record vote was requested.

The motion to table prevailed by (Record 395): 88 Yeas, 41 Nays, 1 Present, not voting.

Yeas — Adkisson; Armbrister; Arnold; Barton; Berlanga(C); Blackwood; Blanton; Bush; Cain; Campbell; Carter; Cavazos; Ceverha; Colbert; Collazo; Connelly; Cooper; Criss; Earley; Eckels; Emmett; Evans, C.; Evans, L.; Finnell; Fox; Garcia, O.; Gavin; Geistweidt; Gibson; Granoff; Hackney; Haley; Hammond; Harris, C.; Heflin; Hilbert; Hill, A.; Hinojosa; Hudson, D.; Hudson, S.; Hury; Jackson; Johnson, S.; Jones; Kubiak; Kuempel; Lewis, R.; Luna, A.; Luna, G.; McDonald; McKinney; Messer; Morales; Moreno, A.; Oliveira; Oliver; Patrick; Patronella; Pennington; Pierce; Price; Ragsdale; Richardson; Riley; Roberts; Robnett; Russell; Saunders; Schlueter; Schoolcraft; Shaw; Shea; Smith, A.; Smith, R.; Smith, T.; Sutton; Tallas; Tejeda; Thompson, G. E.; Thompson, S.; Toomey; Wallace; Watson; Williamson; Willis; Wilson; Wolens; Wright.

Nays — Agnich; Buchanan; Burnett; Carriker; Clark; Clemons; Craddick; Denton; Dutton; Garcia, A.; Gilley; Givens; Glossbrenner; Godwin; Guerrero; Harris, J.; Hill, P.; Johnson, C.; Keller; Laney; Lee; Leonard; McKenna; Melton; Millsap; Moreno, P.; Patterson; Perry; Rangel; Robinson; Smith, C.; Smithee; Staniswalis; Stiles; Taylor; Uher; Valigura; Waldrop; Whaley; Willy; Yost.

Present, not voting — Mr. Speaker.

Absent, Excused — Green; Hollowell; McWilliams; Madla; Rudd; Vowell.

Absent — Danburg; Delco; Edge; Edwards; Hall; Harrison; Hightower; Horn; Martinez; Parker; Perez; Polumbo; Short; Thompson, G. W.

A record vote was requested.

SB 500 passed to third reading by (Record 396): 79 Yeas, 57 Nays, 4 Present, not voting.

Yeas — Adkisson; Armbrister; Arnold; Barton; Blackwood; Blanton; Bush; Cain; Campbell; Carter; Cavazos; Ceverha; Colbert; Collazo; Connelly; Cooper;

Criss; Delco; Edge; Edwards; Emmett; Evans, L.; Fox; Garcia, A.; Garcia, O.; Gavin; Gibson; Givens; Guerrero; Hackney; Hall; Hammond; Harris, C.; Heflin; Hill, A.; Hinojosa; Hudson, D.; Hudson, S.; Hury; Jackson; Johnson, S.; Jones; Luna, A.; Luna, G.; McDonald; Messer; Morales; Moreno, A.; Moreno, P.; Oliver; Patrick; Patronella; Pennington; Perez; Pierce; Price; Ragsdale; Rangel; Richardson; Roberts; Robnett; Schlueter; Schoolcraft; Shaw; Smith, T.; Stiles; Sutton; Tejeda; Thompson, G. W.; Thompson, S.; Toomey; Valigura; Wallace; Watson; Williamson; Willis; Wilson; Wolens; Wright.

Nays — Agnich; Buchanan; Burnett; Carriker; Clark; Clemons; Craddick; Danburg; Denton; Dutton; Earley; Eckels; Evans, C.; Finnell; Geistweidt; Gilley; Glossbrenner; Godwin; Granoff; Halcy; Harris, J.; Hilbert; Hill, P.; Horn; Johnson, C.; Keller; Kubiak; Kuempel; Laney; Lee; Leonard; Lewis, R.; McKenna; McKinney; Melton; Millsap; Oliveira; Patterson; Perry; Riley; Robinson; Russell; Saunders; Shea; Short; Smith, A.; Smith, C.; Smith, R.; Smithee; Staniswalis; Taylor; Thompson, G. E.; Uher; Waldrop; Whaley; Willy; Yost.

Present, not voting — Mr. Speaker; Berlanga(C); Harrison; Hightower.

Absent, Excused — Green; Hollowell; McWilliams; Madla; Rudd; Vowell.

Absent — Martinez; Parker; Polumbo; Tallas.

PAIRED

Hightower (present), who would vote no with Vowell (absent), who would vote yes.

(Messer in the chair)

STATEMENT BY REPRESENTATIVES RUDD AND HOLLOWELL

I was excused to meet with the conference committee on **HB 20**. Had I been present I would have voted no on **SB 500**.

Rudd
Hollowell

SB 609 ON SECOND READING (Berlanga - House Sponsor)

The chair laid before the house on its second reading and passage to third reading.

SB 609, A bill to be entitled An Act relating to regulating the taking, possession, purchase, and sale of oysters and shrimp, to research programs concerning oysters and shrimp, and to fees for certain shrimp licenses; providing penalties; amending the Parks and Wildlife Code, as amended, by adding Subchapter E to Chapter 76 and Section 77.007; and by amending Subsection (a), Section 77.004; Subsection (b), Section 77.031; Subsection (b), Section 77.033; Subsection (b), Section 77.035; and Subsection (b), Section 77.048.

The bill was read second time.

Representative Campbell offered the following committee amendment to the bill:

(Speaker in the chair)

COMMITTEE AMENDMENT NO. 1

Amend proposed **SB 609** as follows:

In Section 1, page 3, line 2, add a new subsection (g), Section 76.301, Parks and Wildlife Code, to read as follows:

(g) The Commission shall make no proclamation under this Chapter until it has approved and adopted an Oyster Management Plan and Economic Impact Analysis prepared by the Department as provided in Section 76.302 of this code and unless such proclamation is shown to be consistent with the approved Oyster Management Plan.

Committee Amendment No. 1 was adopted without objection.

Representative Campbell offered the following committee amendment to the bill:

COMMITTEE AMENDMENT NO. 2

Amend proposed **SB 609** as follows:

In Section 3, page 6, line 10, add a new subsection (f), Section 77.007, Parks and Wildlife Code, to read as follows:

(f) The Commission shall make no proclamation under this Chapter until it has approved and adopted a Shrimp Management Plan and Economic Impact Analysis prepared by the Department as provided in Section 77.004 and unless such proclamation is shown to be consistent with the Shrimp Management Plan.

Committee Amendment No. 2 was adopted without objection.

Representative Campbell offered the following committee amendment to the bill:

COMMITTEE AMENDMENT NO. 3

Amend proposed **SB 609** as follows:

Add a new Section 9 on page 7, line 9, to read as follows:

Section 9. This Act expires September 1, 1991, and renumber existing Section 9 as Section 10.

Committee Amendment No. 3 was adopted without objection.

SB 609, as amended, was passed to third reading. (Pennington, Watson, Criss, Uher, and Hury recorded voting no.)

SB 398 ON SECOND READING
(Tejeda - House Sponsor)

The speaker laid before the house on its second reading and passage to third reading,

SB 398, A bill to be entitled An Act relating to changing the name of the Veterans Affairs Commission to the Texas Veterans Commission; amending Article 5787, Revised Statutes, as amended, by amending Subsection (b), Section (1), and the section heading and Subsections (b), (b-1), (c), (e), and (f), Section 3; amending Subdivision (7), Section 162.001, Natural Resources Code; and amending Subsection (a), Section 3, and Subsection (b), Section 10, Chapter 874, Acts of the 67th Legislature, Regular Session, 1981, as amended (Article 4447w, Vernon's Texas Civil Statutes).

The bill was read second time and was passed to third reading.

SB 150 ON SECOND READING
(Laney - House Sponsor)

The speaker laid before the house on its second reading and passage to third reading,

SB 150, A bill to be entitled An Act relating to the declaration of Texas Sesquicentennial Day as a holiday; adding Article 4591.1 to Title 72, Revised Statutes.

The bill was read second time and was passed to third reading.

SB 449 ON SECOND READING
(Whaley - House Sponsor)

The speaker laid before the house on its second reading and passage to third reading, the complete committee substitute for **SB 449**.

CSSB 449

A BILL TO BE ENTITLED
AN ACT

relating to the deposit, investment, and management of county funds and to the imposition of certain handling charges involving county funds or funds held in trust by a county or district clerk; imposing certain fees; amending Chapter 467, Acts of the 62nd Legislature, Regular Session, 1971, by amending Section 2 and adding Subsection (h) to Section 4; amending Article 2544, Revised Statutes; amending Section (c) and adding Sections (d) and (e), Article 2549, Revised Statutes; adding Section 4c to Chapter 14, General Laws, Acts of the 41st Legislature, 4th Called Session, 1930 (Articles 1709a, 2544, 2549, and 2558a, Vernon's Texas Civil Statutes); adding Article 3943f to Title 61, Revised Statutes; and repealing Chapter 694, Acts of the 66th Legislature, 1979 (Article 1644f, Vernon's Texas Civil Statutes).

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 2, Chapter 467, Acts of the 62nd Legislature, Regular Session, 1971 (Article 1709a, Vernon's Texas Civil Statutes), is amended to read as follows:

"Section 2. ~~The [From and after the effective date of this Act, the]~~ County Treasurer in each county of this State shall receive all moneys belonging to the county from whatever source they may be derived. A county officer who receives funds shall deposit them with the County Treasurer or his successor not later than the next regular business day after the day on which the funds are received, but in no event, shall deposits be made later than seven business days upon receipt of said funds with the following exception. In counties with a population of under 50,000, the Commissioners Court, at its discretion, may extend the time for which funds shall be deposited with the County Treasurer or his successor, up to thirty days from the time said funds are received. Clarification as to moneys and mode and manner of receipt thereof not inconsistent with existing laws follows:

"(a) All fees, commissions, funds and moneys belonging to the county shall be turned over to the County Treasurer by the officer who collected them in accordance with any applicable procedures prescribed by or under Articles 1656 and 1656a, Revised Civil Statutes of Texas, 1925, or in the case of the County Assessor-Collector, in accordance with the procedures prescribed by or under the Tax Code or other laws[, in the manner prescribed in Chapter 98, Acts of the 43rd Legislature, 1933, as amended (Article 1656a, Vernon's Texas Civil Statutes)]. Such deposit of funds in the county treasury shall not in any wise change the ownership of any fund so deposited, except to indemnify said officer and his bondsman or other owners of such funds during the period of deposit with the county.

“(b) All deposits that are made in the county treasury shall be upon deposit warrant issued by the County Clerk in triplicate; said warrants shall authorize the treasurer to receive the amount named, for what purpose, and to which fund the same shall be applied. The treasurer shall retain the original; the duplicate shall be signed and returned to the clerk and the triplicate signed and returned to the depositor as provided in Article 1657, Revised Civil Statutes of Texas, 1925. In each county of this State having a County Auditor the County Clerk shall give his copy to the auditor, who then shall enter same upon his books as a check and balance, charging the amounts to the County Treasurer and crediting the same to the depositing party.

“(c) The treasurer shall not under any circumstances receive any money in any other manner than that named herein. However, this Act does not affect the authority of a Commissioners Court to adopt an order under Article 1657, Revised Civil Statutes of Texas, 1925, relieving the County Clerk of the duties prescribed by Article 1657. Furthermore, ~~except that~~ in counties of whose population exceeds 1,200,000 the County Clerk is relieved of all duties prescribed by Article 1657, Revised Civil Statutes of Texas, 1925. In ~~such~~ counties with that population the County Treasurer shall prepare a triplicate receipt for all moneys received, retain one copy of the receipt and transmit the original and the duplicate to the county auditor and the depositor respectively, as provided in Chapter 235, Acts of the 60th Legislature, 1967 (Article 1657a, Vernon's Texas Civil Statutes).”

SECTION 2. Section 4, Chapter 467, Acts of the 62nd Legislature, Regular Session, 1971 (Article 1709a, Vernon's Texas Civil Statutes), is amended by adding Subsection (h) to read as follows:

“(h) The County Treasurer, if satisfied that an original check or other order drawn on the county treasury by a proper authority is lost or destroyed, may issue a duplicate instrument in lieu of the original. However, the duplicate instrument may not be issued until an applicant has filed an affidavit with the County Treasurer stating that the applicant is the true owner of the original instrument and that the original is lost or destroyed. The County Treasurer may require the applicant to execute a bond that is double the amount of the claim. The bond must be executed with two or more good and sufficient sureties, must be made payable to the County Judge, must be notarized, must be approved by the County Treasurer, and must be conditioned that the applicant will hold the county harmless and will return to the County Treasurer upon demand by the County Treasurer the duplicate instrument or the amount of money named in the duplicate, together with all costs that may accrue against the county in collecting the amount.

“After the issuance of the duplicate instrument, if the County Treasurer determines that the duplicate was improperly issued or that the applicant or party to whom the duplicate was issued is not the owner of the original instrument, the County Treasurer shall at once demand the return of the duplicate, if unpaid, or the amount paid out by the county, if the duplicate is paid. On the failure of the party to return the duplicate instrument or the amount of money called for, suit shall be instituted on the bond by the County Treasurer through the office of the County or District Attorney. Venue for the suit is in the county in which the County Treasurer serves.”

SECTION 3. Article 2544, Revised Statutes, is amended to read as follows:

“Article 2544. NOTICE TO BANKS. The Commissioners Court of each county is hereby authorized ~~and required~~ at the February Regular Term ~~thereof next following each general election~~ to enter into a contract with any banking corporation, association or individual banker in such county for the depositing of the public funds of such county in such bank or banks. However, the Commissioners Court is required at the February Regular Term next following each general election to enter into such a contract for the depositing of public funds.

Notice that such contracts will be made by the Commissioners Court shall be published by and over the name of the County Judge, once each week for at least twenty (20) days before the commencement of such term in some newspaper published in said county; and if no newspaper be published therein, then in any newspaper published in the nearest county. In addition thereto, notice shall be published by posting same at the courthouse door of said county."

SECTION 4. Article 2549, Revised Statutes, as amended, is amended by amending Section (c) and by adding Sections (d) and (e) to read as follows:

"(c) Unless expressly prohibited by law or unless it is in contravention of any depository contract between a county and any depository bank, the Commissioners Court may direct the county treasurer to[:

"[(1)] withdraw any amount of funds of the county that are deposited in a county depository and that are not required immediately to pay obligations of the county or required to be kept on deposit under the terms of the depository contract[;] and to

"[(2)] invest those funds in:

"(1) direct debt securities of the United States; or

"(2) security repurchase agreements.

"(d) Investments in security repurchase agreements may be made only with the county depository bank or with state or national banks domiciled in this State.

"(e) In this article 'security repurchase agreement' means a simultaneous agreement to buy, hold for a specified time, and then sell back at a future date any of the following securities, obligations, or participation certificates: United States government securities; direct obligations of the United States; obligations the principal and interest of which are guaranteed by the United States; or direct obligations of, or participation certificates guaranteed by, the Federal Intermediate Credit Banks, Federal Land Banks, Federal National Mortgage Association, Federal Home Loan Banks, or Banks for Cooperatives."

SECTION 5. Chapter 14, General Laws, Acts of the 41st Legislature, 4th Called Session, 1930 (Article 2558a, Vernon's Texas Civil Statutes), is amended by adding Section 4c to read as follows:

"Section 4c. (a) To offset the expense of handling District Clerk and County Clerk Trust Funds for the benefit of litigants in civil proceedings, a county may collect from the nonprevailing party in the litigation or from the party the court shall designate a fee of \$50.

"(b) Funds collected under this section shall be deposited by the County Treasurer in the General Fund of the county."

SECTION 6. Title 61, Revised Statutes, as amended, is amended by adding Article 3943f to read as follows:

"Article 3943f. OTHER FEES OF COUNTY TREASURER

"Section 1. County treasurers may collect the following fees from the appropriate individuals, firms, corporations, governmental agencies, governmental representatives, or other legal entities:

"(1) for checks presented to a county in payment of any service, fee, claim, registration, fine, or other cost of the county for which the deposited check was returned to the county by the depository bank of the county or by any other bank due to insufficient funds to cover the check, account closed, signature not authorized, drawn on uncollected funds, or for any other reason deemed the fault of the drawer, a fee of \$15 for each check returned.

"(2) for placement of a stop-payment order on each check issued by a county for which the county will directly or indirectly be charged by the depository bank of the county or by any other bank \$15; or

"(3) for each copy made of a page or part of a page of records, orders, checks, or other papers on file or of record in the treasurer's office, whether certified or not \$1.

“Section 2. Funds received under Section 1 of this article shall be deposited in the general fund of the county to the credit of county treasurer fees of office.”

SECTION 7. Section 2, Chapter 467, Acts of the 62nd Legislature, Regular Session, 1971 (Article 1709a, Vernon's Texas Civil Statutes), as amended by this Act, applies only to the deposit of funds received by a county officer on or after the effective date of this Act. The deposit of funds received before the effective date of this Act is governed by the law in existence at the time the funds were received. The prior law is continued in effect for this purpose as if this Act were not in force.

SECTION 8. Chapter 694, Acts of the 66th Legislature, 1979 (Article 1644f, Vernon's Texas Civil Statutes), is repealed.

SECTION 9. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

CSSB 449 was read second time and was passed to third reading. (Bush, Carter, Fox, Roberts, Craddick, Finnell, and R. Smith recorded voting no.)

SB 216 ON SECOND READING
(Armbrister - House Sponsor)

The speaker laid before the house on its second reading and passage to third reading,

SB 216, A bill to be entitled An Act relating to the power of governing boards of institutions of higher education to fix the rate of incidental student fees; adding a new Section 54.504 and repealing Section 65.44, Education Code; and declaring an emergency.

The bill was read second time and was passed to third reading. (P. Moreno recorded voting no.)

SB 351 ON SECOND READING
(Kuempel - House Sponsor)

The speaker laid before the house on its second reading and passage to third reading,

SB 351, A bill to be entitled An Act relating to changing the name of the Texas Department of Human Resources to the Texas Department of Human Services.

The bill was read second time and was passed to third reading. (Bush and P. Moreno recorded voting no.)

SB 233 ON SECOND READING
(Laney - House Sponsor)

The speaker laid before the house on its second reading and passage to third reading,

SB 233, A bill to be entitled An Act relating to the processing of claims and accounts and the issuance of warrants and the powers and duties of the comptroller of public accounts; amending the Revised Statutes by amending Sections (2) and (3), Article 4344b and Section (a), Article 4357, as amended, and the following articles, as amended: 4344, 4355, 4359, 4365, and 4393; amending Chapter 212, Acts of the 49th Legislature, Regular Session, 1945, as amended (Article 4393a, Vernon's Texas Civil Statutes), and Section 31.039, Human Resources Code; and repealing Articles 4356 and 4358, Revised Statutes.

The bill was read second time and was passed to third reading.

SB 395 ON SECOND READING
(Criss - House Sponsor)

The speaker laid before the house on its second reading and passage to third reading,

SB 395, A bill to be entitled An Act relating to certain requirements for eligibility for benefits and payments by reimbursing employers under the unemployment compensation laws; amending the Texas Unemployment Compensation Act, as amended, by amending Subsection (f), Section 3; Section 5; Subsection (b), Section 6; and Subsection (b), Section 7-A (Articles 5221b-1, 5221b-3, 5221b-4, and 5221b-5a, Vernon's Texas Civil Statutes).

The bill was read second time and was passed to third reading.

SB 956 ON SECOND READING
(A. Smith - House Sponsor)

The speaker laid before the house on its second reading and passage to third reading,

SB 956, A bill to be entitled An Act relating to providing fidelity bonds for officers, employees, directors, and partners of health maintenance organizations and to certification of taxes paid by health maintenance organizations; amending the Texas Health Maintenance Organization Act, as amended (Article 20A.30, Vernon's Texas Insurance Code), by amending Section 30 and Subsection (a) of Section 33.

The bill was read second time and was passed to third reading.

SB 546 ON SECOND READING
(Clark - House Sponsor)

The speaker laid before the house on its second reading and passage to third reading,

SB 546, A bill to be entitled An Act relating to membership, credits, contributions, and benefits in the Texas County and District Retirement System and the participation of political subdivisions and management of funds; amending the following sections and subsections, Subtitle F, Title 110B, Revised Statutes: Sections 52.001; 52.101(b); 52.110; 53.003(d); 53.105(c); 53.403(c); 53.601(e); 53.702(d); 53.703(a); 54.002(c); 54.201(a); 54.201(d); 54.205; 54.206; 54.303(b); 55.307(a); 55.313(a); 55.313(b); 55.402(c); and 55.404; and adding the following sections and subsections to Subtitle F: Section 51.007, providing for reduction of annuity payments on request; Section 51.008, allowing certain representatives of members annuitants to apply for and be paid benefits due the member or annuitant; Section 51.009, protecting the system and its officials in making benefit payments; Subsection (c), Section 52.004, prescribing the priorities and allocations in payment of benefits undertaken by subdivisions that are abolished or that discontinue enrollment of new employees in the system; Section 53.203, authorizing agreements for adjustment between participating subdivisions of certain obligations to fund benefits for persons successively employed by the subdivisions; Section 54.107, allowing an additional optional benefit to be selected by members entitled to make a deferred retirement benefit selection; Section 54.207, authorizing participating subdivisions to adopt a plan allowing members to qualify for certain benefits on the basis of credited service as set out in the section; Subsection (f), Section 54.502, allowing additional time and manner of proving a member's entitlement to extended supplemental death benefit coverage; Subsection (i), Section 55.403,

providing that each participating subdivision shall "pick up" on the terms and conditions stated, the contributions required to be made by each member by Section 55.402; and adding Subchapter G, authorizing a participating subdivision on the terms and conditions prescribed to make additional subdivision contributions to fund obligations undertaken under Subtitle F, or to reduce multiple matching credits of its members, or to both increase such contributions and reduce such credits.

The bill was read second time and was passed to third reading.

SB 894 ON SECOND READING
(McDonald - House Sponsor)

The speaker laid before the house on its second reading and passage to third reading,

SB 894, A bill to be entitled An Act relating to a program to furnish oral health services to eligible individuals and to the establishment of the Oral Health Improvement Services Program within the Department of Health.

The bill was read second time.

Representative G. E. Thompson offered the following amendment to the bill:

Amend **SB 894**, SECTION 12. ADVISORY COMMITTEE, as follows:

SECTION 12. ADVISORY COMMITTEE. The board may appoint a technical advisory committee to assist the Oral Health Improvement Services Program in areas requiring professional dental and medical expertise. Appointees to the advisory committee must be practitioners licensed to practice in Texas by either the Texas State Board of Dental Examiners or the Texas State Board of Medical Examiners; however, appointments must be made without regard to the race, creed, sex, religion or national origin of the appointee.

The amendment was adopted without objection.

SB 894, as amended, was passed to third reading. (Fox, Roberts, Carter, Craddick, Emmett, R. Smith, A. Smith, Ceverha, Blanton, McKenna, McWilliams, Godwin, Horn, Finnell, Patterson, Hammond, and Jackson recorded voting no.)

RESOLUTION REFERRED TO COMMITTEE

The following resolution was laid before the house and referred to committee:

By L. Evans:

HCR 226, Granting Systems Marketing and Education, Inc., permission to sue the state.

To Committee on Judicial Affairs.

HB 2520 - PERMISSION TO INTRODUCE

Representative A. Smith moved to suspend the constitutional rule for permission to introduce and have placed on first reading **HB 2520**.

The motion prevailed by (Record 397): 132 Yeas, 2 Nays, 1 Present, not voting.

Yeas — Adkisson; Armbrister; Arnold; Barton; Berlanga; Blackwood; Blanton; Buchanan; Burnett; Bush; Cain; Campbell; Carriker; Carter; Cavazos; Ceverha; Clark; Clemons; Colbert; Collazo; Connelly; Cooper; Craddick; Criss; Danburg; Delco; Denton; Dutton; Earley; Eckels; Edge; Emmett; Evans, C.; Evans, L.; Finnell; Fox; Garcia, A.; Garcia, O.; Gavin; Geistweidt; Gibson; Givens;

Glossbrenner; Godwin; Granoff; Guerrero; Hackney; Haley; Hall; Hammond; Harris, C.; Harris, J.; Hightower; Hilbert; Hill, A.; Hill, P.; Hinojosa; Horn; Hudson, D.; Hudson, S.; Hury; Jackson; Johnson, C.; Johnson, S.; Jones; Keller; Kubiak; Kuempel; Laney; Lee; Leonard; Lewis, R.; Luna, A.; Luna, G.; McDonald; McKenna; McKinney; Melton; Messer; Millsap; Morales; Moreno, A.; Moreno, P.; Oliveira; Oliver; Parker; Patrick; Patronella; Patterson; Perez; Perry; Pierce; Price; Ragsdale; Rangel; Richardson; Riley; Roberts; Robinson; Robnett; Russell; Saunders; Schlueter; Schoolcraft; Shaw; Short; Smith, R.; Smith, T.; Smithee; Staniswalis; Stiles; Sutton; Tallas; Taylor; Tejeda; Thompson, G. E.; Thompson, G. W.; Thompson, S.; Toomey; Uher; Valigura; Waldrop; Wallace; Watson; Whaley; Williamson; Willis; Willy; Wilson; Wolens; Wright; Yost.

Nays — Shea; Smith, A.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Green; Hollowell; McWilliams; Madla; Rudd; Vowell.

Absent — Agnich; Edwards; Gilley; Harrison; Heflin; Martinez; Pennington; Pumbo; Smith, C.

PROVIDING FOR A LOCAL AND CONSENT CALENDAR

Representative Robnett moved to suspend all necessary rules to set a Local and Consent Calendar for Tuesday, May 21.

The motion prevailed without objection.

SB 1309 - RULES SUSPENDED

Representative C. Evans moved to suspend the 5-day posting rule to allow the Committee on Judicial Affairs to consider **SB 1309**.

The motion prevailed without objection.

HB 1868 - RULES SUSPENDED

Representative Uher moved to suspend the 48-hour subcommittee report rule to allow the Committee on Appropriations to consider **HB 1868**.

The motion prevailed without objection.

SB 1169 - RULES SUSPENDED

Representative A. Luna moved to suspend the 48-hour subcommittee report rule to allow the Committee on Science and Technology to consider **SB 1169**.

The motion prevailed without objection.

SB 925 - RULES SUSPENDED

Representative Barton moved to suspend the 5-day posting rule to allow the Committee on Human Services to consider **SB 925**.

The motion prevailed without objection.

HB 2258 - RULES SUSPENDED

Representative Perry moved to suspend the 48-hour subcommittee report rule to allow the Committee on Agriculture and Livestock to consider **HB 2258**.

The motion prevailed without objection.

SB 590 - RULES SUSPENDED

Representative Parker moved to suspend the 48-hour subcommittee report rule to allow the Committee on Judicial Affairs to consider **SB 590**.

The motion prevailed without objection.

SB 744 AND SB 1011 - RULES SUSPENDED

Representative T. Smith moved to suspend the 5-day posting rule to allow the Committee on Criminal Jurisprudence to consider **SB 744** and **SB 1011**.

The motion prevailed without objection.

HB 1553 AND HB 2375 - RULES SUSPENDED

Representative Laney moved to suspend the 48-hour subcommittee report rule to allow the Committee on State Affairs to consider **HB 1553** and **HB 2375**.

The motion prevailed without objection.

HCR 212 - RULES SUSPENDED

Representative Gilley moved to suspend the 5-day posting rule to allow the Committee on Judicial Affairs to consider **HCR 212**.

The motion prevailed without objection.

RULES SUSPENDED

Representative T. Smith moved to suspend the 5-day posting rule to allow the Committee on Judicial Affairs to consider **HCR 213**, **SCR 108**, **SCR 109**, **SCR 110**, **SCR 111**, **HCR 190**, **HCR 204**, **HCR 205**, **HCR 206**, and **HCR 207**.

The motion prevailed without objection.

RULES SUSPENDED

Representative Bush moved to suspend the 5-day posting rule to allow the Committee on Judiciary to consider **SB 278**, **HB 2274**, and **HB 675**.

The motion prevailed without objection.

HB 1578 AND HB 1638 - RULES SUSPENDED

Representative Messer moved to suspend the 48-hour subcommittee report rule to allow the Committee on State Affairs to consider **HB 1578** and **HB 1638**.

The motion prevailed without objection.

COMMITTEE MEETING ANNOUNCEMENTS

The following committee meetings were announced:

Agriculture and Livestock, Subcommittee on **HB 2258** on adjournment today, Desk 80, to consider **HB 2258**.

State Affairs, Subcommittee on Real Estate, on adjournment today, Desk 97, to consider **CSHB 1973**.

Higher Education, on adjournment today, Desk 110, to consider **SB 640**, **SB 223**, **SB 141**, and **HB 1377**.

Judicial Affairs, on adjournment today, Reagan Building, to consider **HCR 212**.

Appropriations, on adjournment today, Desk 107, to consider **SB 1273, SB 1322, HB 2508, HB 2510, and HB 1868.**

State Affairs, on adjournment today, Desk 97, to consider **SB 1350** and subcommittee reports.

County Affairs, on adjournment today, Desk 99, to consider **HJR 27.**

Energy, on adjournment today, Desk 89, to consider eligible bills.

Liquor Regulation, on adjournment today, speakers committee room.

Ways and Means, Subcommittee on Revenue and Taxation, on adjournment today, Desk 37, to consider **CSHB 2019.**

Criminal Jurisprudence, on adjournment today, Room 101, Reagan Building, to consider **SB 744 and SB 1011.**

Elections, on adjournment today, Desk 112, to consider pending business.

ADJOURNMENT

Representative C. Evans moved that the house adjourn until 10 a.m. tomorrow.

The motion prevailed without objection.

The house accordingly, at 5:23 p.m., adjourned until 10 a.m. tomorrow.

APPENDIX

STANDING COMMITTEE REPORTS

Favorable reports have been filed by committees on bills and resolutions, as follows:

Appropriations - **HB 2414, SB 192, SB 994**

Agriculture and Livestock - **HB 951**

County Affairs - **SB 723, SB 1335, SJR 30, SJR 32**

Criminal Jurisprudence - **SB 169, SB 550, HB 1165, HB 1661**

Elections - **SB 1028**

Environmental Affairs - **HCR 203, HB 2501, SB 528, SB 858**

Higher Education - **SB 578**

House Administration - **HR 311, HR 332, HR 340, HR 344, SCR 94**

Human Services - **SB 544**

Insurance - **SB 1128, SB 1391, SB 1415**

Judicial Affairs - **HB 1658**

Law Enforcement - **HB 988, SB 842, SB 1239**

Liquor Regulation - **HB 215, HB 582, HB 800**

Natural Resources - **HB 1749, HB 2479, HB 2485, HB 2499, HB 2502, HB 2511, HB 2512, HB 2513, HB 2514, SB 1245**

Public Education - **HCR 99, HB 1800, HB 1968, HB 2036**

Public Health - **HB 1744, SB 410**

Retirement and Aging - **SB 969**

State Affairs - **HR 19, HCR 64, HCR 141, HCR 169, HCR 193, HJR 75, HB 1314, HB 1903, SB 22, SB 532, SB 829, SB 835, SB 926, SB 1034, SB 1224, SB 1301, SB 1330**

Transportation - **HB 1344, HB 2333, HB 2456, HB 2496, HB 2516, SB 327, SB 1114**

Urban Affairs - **HB 1655, SB 967**

Ways and Means - **HB 1069, HB 1751, SB 482, SB 784, SB 809, SB 1409**

ENGROSSED

May 14 - **HB 256, HB 435, HB 797, HB 894, HB 1551, HB 1955, HB 2005, HJR 54**

SENT TO THE GOVERNOR

May 14 - **HB 248, HB 318, HB 341, HB 353, HB 597, HB 665, HB 731, HB 783, HB 794, HB 851, HB 871, HB 899, HB 1085, HB 1086, HB 1087, HB 1088, HB 1089, HB 1090, HB 1091, HB 1092, HB 1093, HB 1110, HB 1188, HB 1204, HB 1210, HB 1462, HB 1550, HB 1560, HB 1686, HB 1808, HB 1865, HB 1949, HB 2045, HB 2048, HB 2216, HB 2288, HB 2381, HB 346, HB 385, HB 485, HB 927, HB 1059, HB 1393, HB 1697, HB 1779, HB 1805, HCR 9, HCR 171, HCR 185, HCR 195, HCR 196, HCR 199, HCR 201, HCR 202**

May 15 - **HB 2**

BILL TRANSMITTED TO GOVERNOR

UNDER ARTICLE XVI, SECTION 59

The following house bill was transmitted by the chief clerk to the governor:

May 15 - **HB 2519**

COAUTHORS AUTHORIZED

The following members were granted permission by the authors to sign bills and resolutions as coauthors:

HB 309 - D. Hudson

HB 400 - Gibson

HB 473 - R. Smith

HB 773 - D. Hudson

HB 1201 - S. Hudson

HB 1958 - Riley

HB 1959 - Riley

HB 2198 - Uher

HB 2462 - Hammond

HB 2489 - Cooper

HB 2493 - Harrison

HJR 12 - D. Hudson

HJR 37 - Gibson